

REQUEST FOR PROPOSALS

AUDITOR OF POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY



RFP Issue Date: **July 17, 2025**

Questions Due: **July 28, 2025**
 By 3:00PM prevailing Eastern Time

Proposals Due: **August 28, 2025**
 by 3:00PM prevailing Eastern Time

James A. Kompany
Chairman
Police and Firemen's Retirement System of New Jersey

1.0 INFORMATION FOR BIDDERS

1.1 Purpose and Intent

The purpose of this Request for Proposals (“RFP”) is to solicit bid proposals from qualified independent public accounting firms to provide advice on accounting matters, accounting pronouncements, and internal controls, to perform annual audits, and to prepare various audit reports with respect to the Police and Firemen’s Retirement System of New Jersey (“PFRSNJ”).

The intent of this RFP is to award a contract to a qualified Bidder whose proposal, conforming to this RFP, successfully demonstrate the qualifications, expertise, and resources to effectively perform the services described herein, and who is most advantageous to the PFRSNJ, price and other factors considered. Bidders interested in being selected to perform the services described in this RFP should submit materials in accordance with this RFP.

The State of New Jersey Combined Standard Terms and Conditions (the “Standard Terms and Conditions”) included with this RFP will apply to all Contracts made with the PFRSNJ. These terms are in addition to the terms and conditions set forth in this Bid Solicitation and should be read in conjunction with them unless the Bid Solicitation specifically indicates otherwise.

1.2 Background

The Board of Trustees (“the Board”) was reconstituted pursuant to P.L. 2018, c. 55 (“Chapter 55”) as the fiduciary of the retirement system, responsible for the proper operation of the PFRSNJ including the investment and reinvestment of the assets of the retirement system (“PFRSNJ Assets”). The primary obligation of the Board is to direct policies and investments for the exclusive benefit of the retirement system’s members. Pursuant to P.L. 2018, c. 55, the Board has established an Audit Committee to assist in the oversight of the financial reporting and audit processes of the Board and that shall assist the Board in retaining an independent auditor to conduct an audit of the retirement system’s financial statements.

1.3 Key Events

1.3.1 Inquiries, Addenda to the RFP

If a Bidder has questions or requires clarification regarding this RFP, please direct the inquiry via email to:

vendorselection@PFRS.NJ.Gov

The subject line of the email should read, “**PFRSNJ Auditor RFP**”. Bidders must not contact the PFRSNJ directly regarding this RFP other than through the email address provided herein. Additionally, **questions must be received by the deadline indicated on the cover page.**

- Questions should be asked in consecutive order, from beginning to end, following the organization of the RFP; and
- Each question should begin by referencing the RFP section number and page number to which it relates.

All questions, except for purely ministerial matters such as confirming receipt of a proposal, will be

answered in writing with responses posted on the PFRSNJ website at www.PFRS.NJ.gov. The posted questions will be anonymous.

If during the course of the advertisement for the RFP it becomes necessary to alter any of the terms, conditions, or requirements of this RFP, such alterations shall be set forth in written addenda to the RFP. Addenda to the RFP, if any, will be posted on the PFRSNJ website. Any addenda will be posted a minimum of seven (7) business days in advance of the announced deadline for receipt of proposals. It is the Bidder's responsibility to check the PFRSNJ website for any updates.

1.3.2 Proposal Submission Deadline, Postponement

To be considered for award, the proposal submission must be received by the PFRSNJ on or before the due date and time indicated on the cover sheet. **ANY PROPOSAL NOT RECEIVED BY THE DATE AND TIME INDICATED ON THE COVER SHEET WILL BE REJECTED.** For details on submitting a proposal according to the terms of this RFP, see Section 3.0 Proposal Submission.

If a Bidder requests, prior to the deadline, that the PFRSNJ Executive Director postpone the deadline due to a documentable cause of delay that is beyond the control of the Bidder, or if the Executive Director otherwise determines that a postponement is in the best interest of the PFRSNJ, the Executive Director may designate a revised deadline. Notice of any postponement will be posted on the PFRSNJ website.

1.4 Public Disclosure of Proposal(s)

A Bidder's proposal and all information submitted by Bidder(s) in response to this RFP may be subject to release to the public upon a properly submitted request under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA") or the common law right to know, except as may be exempted from public disclosure by OPRA and the common law. A Bidder may designate specific information as not subject to disclosure pursuant to the exceptions established under OPRA (see N.J.S.A. 47:1A-1.1) or the common law when the Bidder has a good faith legal and/or factual basis for such assertion. The location in the proposal of any such designation should be clearly stated in a cover letter. Notwithstanding any designation to the contrary submitted by a Bidder, the PFRSNJ reserves the right to make a determination as to which material(s) are exempt from disclosure, and will advise the Bidder accordingly. The PFRSNJ cannot honor any attempt by a Bidder to designate its entire proposal as exempt from disclosure. In the event of any challenge to a Bidder's assertion of confidentiality with which the PFRSNJ does not concur, the Bidder will be so notified and may elect to defend its assertion in a timely manner at its own expense.

All received proposals will remain unopened until the deadline for proposal submission. After the deadline but prior to the issuance of a notice of intent to award a contract pursuant to this RFP, only the names and addresses of the Bidder(s) submitting proposals may be made public. Following the issuance of a notice of intent to award by the Executive Director, materials relating to the procurement may be made available, upon properly made request, to the non-winning bidders and to any taxpayer considering filing a protest of the notice of intent to award. After the award of a contract or contracts, or a decision not to award any contract(s), the proposal(s) and all information submitted by Bidder(s) in response to this RFP may be released in accordance with governing law.

1.5 Tax Exempt Status

Pursuant to N.J.S.A. 54:32B-9, the PFRSNJ is not subject to the sales and use taxes imposed under N.J.S.A. 54:32B. All fees billed from the awarded contract should exclude the previously referenced sales and use taxes. A State of New Jersey Division of Taxation Sales Tax Form ST-4 ("Sales Tax Form") is attached hereto as Attachment E.

1.6 Contract Specific Definitions

Audit Committee – A subcommittee of the PFRSNJ Board of Trustees whose role it is to oversee the financial reporting and audit of the PFRSNJ.

Annual Comprehensive Financial Report (ACFR) – A financial report that combines the results of several funds.

Crosswalk – A trial balance for a particular fund to show groupings of accounts on the fund's balance sheet and revenue and expense statements.

DOI – Division of Investment located within the Department of Treasury for the State of New Jersey.

DOPB – Division of Pensions & Benefits located within the Department of Treasury for the State of New Jersey.

Experience Studies – Conducted by actuaries every three (3) years examining each pension fund to determine whether basic assumptions are accurate or whether they need to be revised.

Independence Letter – A letter issued by the Vendor {Contractor} that gives the State Auditor permission to use the Vendor {Contractor's} audit in the State's ACFR.

Management Letter – A discretionary letter issued by the Vendor {Contractor} to management of PFRSNJ and the Audit Committee of the PFRSNJ setting forth issues that the Vendor {Contractor} deems necessary to be addressed.

Opinion Letter – A letter signed by a partner or principal of the auditing firm that is included in the audited financial statements of each fund.

PFRSNJ – Police and Fireman's Retirement System located within the Department of Treasury for the State of New Jersey

1.7 Data Security Requirements- Contractor Responsibility

The awarded Contractor will be responsible for the proper safe guarding and security of all data received from the PFRSNJ. Hereto attached as Attachment F are instructions and requirements for the Contractor regarding data security.

2.0 SCOPE OF SERVICES

The PFRSNJ is an agency within the State of New Jersey that is responsible for managing and investing the pension plan's assets on behalf of the Police and Firemen of New Jersey. The PFRSNJ is seeking an independent public accounting firm, qualified by experience and personnel, to advise on accounting matters, accounting pronouncements, and internal controls, to perform annual audits, and to prepare various audit reports.

The Contractor shall remain informed of and comply with any new Governmental Accounting Standards Board (GASB) pronouncements that may be issued during the term of this contract. The Contractor is

responsible for implementing any new GASB standards in a timely and efficient manner, ensuring that all financial statements and reports are prepared in accordance with the latest GASB requirements. The Contractor shall also provide training and support to the Client's staff as necessary to understand and apply these new standards.

The custodian, currently State Street Bank, maintains the official book of record for the investments of the PFRSNJ. For further information, see Attachment D– Description of Funds, Systems, and Accounting Overview. Attachment D contains a description of the custodial as well as an accounting and systems overview.

Audit work under this Contract may start prior to the fiscal year end of June 30th each year, when the first postings become available for the third quarter. Audit work cannot begin until the Contractor has met with the Audit Committee. Draft and final financial statements for each respective fund or report are due in accordance with the schedule in Section 2.6.

2.1 Fund Reports to be Delivered

The funds and related reports are described in Attachment D to this Bid Solicitation. The following list of deliverable items will also match the price quote:

- A. PFRSNJ Financial Statements;
- B. Management Letters; and
- C. Independent Letter to State Auditor.

2.2 Audit Period

The audit period shall be the PFRSNJ's fiscal year, which starts on July 1 and ends on June 30 of the following calendar year. The entire Contract period shall cover five years with two optional one-year extensions.

2.3 Audit Personnel

The contractor shall have an adequate number of appropriately qualified staff and other resources available and working to meet this contract's workload and delivery date requirements.

2.4 Audit

Audits shall be performed in accordance with Generally Accepted Auditing Standards (GAAS)

2.4.1 Independent Audit Report

The Contractor shall issue its audit opinions, in accordance with the schedule in Section 2.6 of the Bid Solicitation. The PFRSNJ will prepare and provide drafts of all required financial statements and disclosures. The format will be similar to the statements in the audit reports posted on the Division of Pension and Benefits' website at <https://www.nj.gov/treasury/pensions/financial-reports.shtml>

2.4.2 Independence Letter

The Independence Letter, which gives the State Auditor the ability to use the Contractor's audit produced under this Contract, should be included with the State Annual Comprehensive

Financial Report (“ACFR”) report that is scheduled for submission to the Deputy Director of Financial Operations on or before November 1st of the fiscal year.

The Contractor shall make arrangements with the auditor that performed the prior audits of all funds to obtain any documents or information from the prior audit that may be needed to perform the work of this Contract.

2.4.3 Entrance Conference

The Contractor shall schedule an entrance conference and meet with the Deputy Director of Financial Operations to discuss in detail the scope and purpose of the audit. The Contractor shall schedule the meeting within thirty (30) days of Contract award.

2.4.4 Audit Start Date

The Contractor should plan to start the audit prior to fiscal year end every year unless otherwise notified by the Deputy Director of Financial Operations. The start date for the first year may be later depending on the date of the Contract award. Before beginning the PFRSNJ’s audit each year, the Contractor must meet with the Audit Committee.

2.4.5 Presentations

The Contractor shall make a presentation of the audit results of the PFRSNJ audit and any PFRSNJ related audit findings to the Audit Committee and the Board.

2.5 Working Papers

The Contractor shall retain all books, records, and other documents relative to this Contract for five (5) years following the end of the final audit year. The PFRSNJ, its authorized agents and/or State Auditors, and successor audit firms shall have full access to and the right to examine any of the materials during this period at their respective office locations.

The Contractor shall make the working papers and any other information related to the audits available to any future replacement auditing Contractor during the retention period specified herein. There shall be no separate payment to the Contractor for providing access to the working papers as long as that access is requested during the retention period specified herein, even if the Contract has expired. Failure to make working papers available on request shall be a Contract non-performance item subject to Section 5.21 of the Standard Terms and Conditions.

Crosswalks shall be part of the Contractor’s working papers and shall be available for review by the Deputy Director of Financial Operations and State Auditors. The Contractor’s audit of the crosswalks shall show the various groupings of account balances on the trial balance and their cumulative dollar amount on each line item of the fund’s corresponding financial statements, namely, the Statement of Fiduciary Net Assets for the Pension Trust, which are part of the published audit reports.

2.6 Audit Report Due Dates

Due dates are established at the beginning of each audit cycle for the audit completion (including Financial Statements and GASB reporting, where applicable).

Audit reports shall consist of the audited financial statements, management's discussion and analysis (MD&A), notes, schedules, and the signed opinion letter from the Contractor. The audit reports and schedules for the applicable funds should have preliminary drafts no later than December 15th of the fiscal year with final reports issued no later than December 31st of the fiscal year.

All the above reports shall be sent to the Deputy Director of Financial Operations. The PFRSNJ will publish the audited financial statements of the PFRSNJ on its website each fiscal year.

2.7 Working Space at PFRSNJ Offices

Space will be made available at no charge for the Contractor's auditors and staff to work in the PFRSNJ offices at 50 West State Street, Suite 1005, Trenton, NJ 08608 or, if the PFRSNJ moves its office during the term of the Contract, at the new office location. The space has historically been a conference room with tables and chairs, or work cubicles. The Contractor shall bring its own computers, printers, and other equipment and supplies to perform the audit. Should the Contractor require the use of the Department's internet, the Contractor's computers and/or laptops shall be certified by DORES, to ensure that all Windows and virus definitions have been updated within the previous thirty (30) days. The Contractor shall be responsible for installing such updates on a regular basis for continued use of the Treasury's internet.

2.8 Preparations of Statements, Notes and Schedules

PFRSNJ staff will prepare the initial drafts of all financial statements, MD&A, notes, and schedules for the ACFR and individual reports and provide them to the Contractor. The Contractor shall prepare PDF copies of the final audited reports as specified in Bid Solicitation Section 2.6 Audit Report Due Dates.

In performing the audits, the Contractor shall recommend any adjustments or required disclosures to the financial statements, MD&A, notes, and schedules based on the results of the audit and the independent and professional determination of the accuracy of the financial statements of the plan.

Such recommended changes shall be brought to the attention of the Deputy Director of Financial Operations for the PFRSNJ for consideration.

2.9 Progress Reports and Meetings

Progress meetings/conference calls shall be held on a weekly basis with personnel from the audit firm, the PFRSNJ, and other appropriate personnel to ensure that all information is received and the audit is moving forward in a timely manner to ensure that the December 15 and December 31 deadlines are met. Additional meetings and/or conference calls between the audit firm and the PFRSNJ shall be scheduled by the Deputy Director of Financial Operations on an as-needed basis. The meetings shall be held in Trenton, NJ with the ability to participate remotely.

An entrance conference shall be held with the Contractor and the PFRSNJ Deputy Director of Financial Operations to discuss in detail the scope and purpose of this engagement. An initial meeting will occur within thirty (30) days after the Contract award in Trenton, NJ. The Contractor shall ensure that the Engagement Partner, Audit Manager, and Senior Auditor, who will supervise staff during the audit, are all present.

Following the entrance conference and as coordinated by the PFRSNJ, the Engagement Partner and Manager shall meet with the Audit Committee prior to the commencement of the audit. Upon completion of the audits and prior to the submission of the final reports, or at any other time so designated by the Deputy Director of Financial Operations, or deemed necessary by the firm, the Contractor shall meet with the Audit Committee to discuss audit planning, management letters, the drafts and final reports, and other matters discussed in this scope of work.

2.10 Extension of Time

Requests for extensions of time relative to the dates noted in the Bid Solicitation Section 2.6 shall be made to the Deputy Director of Financial Operations for approval. If the Deputy Director of Financial Operations does not grant a time extension, the Contractor shall perform the work of the Contract within the timeframes specified in Bid Solicitation Section 2.6 and failure to meet those time frames may constitute non-performance in accordance with Section 5.21 of the SSTC.

3.0 PROPOSAL SUBMISSIONS, ORGANIZATION

3.1 Instructions on Proposal Submission

To be considered for the award of a contract pursuant to this RFP, a proposal submission must be received by the PFRSNJ on or before the due date and time indicated on the cover sheet. **ANY PROPOSAL NOT RECEIVED BY THE DATE AND TIME INDICATED ON THE COVER SHEET WILL BE REJECTED.**

Send three (3) hard copies to: 50 W State Street, Suite 1100
Trenton, NJ 08608
Attn: PFRSNJ: Courtney Snedeker

Plus one (1) electronic copy to: vendorselection@PFRS.NJ.Gov
The subject line of the email should read, “**PFRSNJ Auditor RFP**”.

Copies are necessary in the evaluation of the proposal submission and for record retention purposes. A Bidder failing to provide the requested number of copies will be charged the cost incurred by the PFRSNJ in producing the requested number of copies. The PFRSNJ assumes no responsibility and bears no liability for costs incurred by a Bidder in the preparation and submission of a proposal in response to this RFP.

The contents of the hard copies must be identical to the contents of the electronic copy. If there are any deviations between the contents of the electronic copy and the contents of the hard copies, only the contents of the electronic copy will be considered as the bid proposal and included in the final Contract.

Proposal submissions **must** include **Attachment B. Technical Requirements and Questions, Attachment C. Fees and Costs Schedule**, and the **Documents Required with the Proposal** (listed in Section 3.2).

3.1.1 Amendments to/Withdrawal of the Bid Proposal

Prior to the deadline for submission indicated on the cover sheet, a Bidder may amend or withdraw their bid proposal by submitting electronic notice to vendorselection@PFRS.NJ.gov requesting their previously submitted proposal be withdrawn. Once an email requesting withdrawal has been sent to vendorselection@PFRS.NJ.gov the proposal will officially be withdrawn and will not be considered by the PFRSNJ. If the Bidder wishes to have an amended proposal, or any proposal, considered by the PFRSNJ, they must submit a new proposal following the instructions contained in this RFP. Any proposal submission, including an amended proposal, must be received by the PFRSNJ by the submission deadline on the cover page.

3.2 Documents Required with the Proposal

The following items **must** be submitted with the proposal.

3.2.1 Cover Letter

The Bidder shall submit a cover letter with its proposal, including the signature of an authorized representative of the Bidder. If the Bidder is a limited partnership, the cover letter must be signed by a general partner. If the Bidder is a joint venture, the cover letter must be signed by a principal of each party to the joint venture. The cover letter should include the name, title, email address, and phone number of the designated representative for the Bidder for the duration of the bid proposal review. Any sections of the proposal that the Bidder wishes to designate as not subject to disclosure under OPRA or the common law, with the location of any such designation clearly stated, should be included in the cover letter. The cover letter must be submitted with the proposal.

3.2.2 Ownership Disclosure Form

Pursuant to N.J.S.A. 52:25-24.2, the Bidder must complete the Ownership Disclosure Form. In the event that the PFRSNJ has from the Bidder, a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the submission deadline for this procurement, the PFRSNJ may rely upon that form; however, if there has been a change in ownership within the last six (6) months, a new Ownership Disclosure Form must be completed and submitted with the proposal.

The Ownership Disclosure Form can be found in **Attachment A1**.

3.2.3 Proposal Submission Certifications

The Bidder must submit a completed Certifications Required with Proposal Submission Form; this Form can be found in **Attachment A2**.

3.3 Documents Required Before Contract Award that Should be Submitted with the Proposal

The following items should be submitted with the proposal, but shall not be submitted after the times specified in this RFP.

3.3.1 Certification Accepting the Standard Terms and Conditions

The Standard Terms and Conditions and the related Certification can be found in **Attachment A3**. The

Bidder must submit a Certification Accepting the Standard Terms and Conditions prior to contract award.

Modifications to the Standard Terms and Conditions memorialized in this RFP, can be found in Modifications to the Standard Terms and Conditions in Section 4.11 of this RFP.

3.3.2 New Jersey Business Registration Certificate

Pursuant to N.J.S.A. 52:32-44, the PFRSNJ is prohibited from entering into a contract with an entity unless the Bidder and each subcontractor named in the proposal submission has a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services in the Department of the Treasury. A copy of the New Jersey Business Registration Certificate for the Bidder (and each subcontractor) must be submitted by the Bidder. You may register your business here: <https://www.nj.gov/treasury/revenue/busregcert.shtml> or obtain a copy of the Business Registration Certificate here: https://www1.state.nj.us/TYTR_BRC/jsp/BRCLLoginJsp.jsp. If the Certificate(s) is/are not submitted with the proposal, then the Bidder must submit the Certificate(s) within seven (7) business days of the PFRSNJ's request or the PFRSNJ may deem the proposal non-responsive.

3.3.3 Affirmative Action Compliance

Bidders and subcontractor(s) are required to submit either: (i) a copy of a New Jersey Certificate of Employee Information Report; or (ii) a copy of a Federal Letter of Approval verifying a federally approved or sanctioned Affirmative Action Program. If the Contractor and/or its named subcontractor(s) are not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval, it/they must complete and submit the Affirmative Action Employee Information Report (AA-302). Information, instruction and the application are available at https://www.state.nj.us/treasury/contract_compliance/index.shtml.

3.3.4 Disclosure of Investigations and Other Actions

The Bidder shall submit a completed Disclosure of Investigations and other Actions Form which shall provide a detailed description of any investigation, and/or litigation, including but not limited to, administrative complaints or other proceedings, involving any public sector clients during the five (5) years immediately preceding the issue date of this RFP. The Bidder shall include the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If the form is not submitted with the proposal, then the Bidder must submit the completed form within seven (7) business days of the PFRSNJ's request or the PFRSNJ may deem the proposal non-responsive.

The Disclosure of Investigations and Other Actions Form can be found in **Attachment A4**.

3.3.5 Source Disclosure Form

Pursuant to N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the PFRSNJ Board shall be performed within the United States, except when the Executive Director certifies in writing a finding that a required service cannot be performed by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer. A completed Source Disclosure Form must be submitted by the Bidder. If the form is not submitted with the proposal, then the Bidder must submit the completed form within seven (7) business days of the PFRSNJ's request or the PFRSNJ may deem the proposal nonresponsive.

The Source Disclosure Form can be found in **Attachment A5**.

3.3.6 Disclosure of Investment Activities in Iran

Pursuant to N.J.S.A. 52:32-58, (P.L. 2021, c. 4), the Bidder must utilize the Disclosure of Investment Activities in Iran Form to certify that neither the Bidder, nor any one of its parents, subsidiaries, or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is identified on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Activities in Iran and that neither the Bidder, nor any one of its parents, subsidiaries, or affiliates, 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 as directed on the form. If the completed form is not submitted with the proposal, then the Bidder must submit the completed form within seven (7) business days of the PFRSNJ's request. A Bidder's failure to submit the completed form will preclude the award of a contract to the Bidder.

The Disclosure of Investment Activities in Iran Form can be found in **Attachment A6**.

3.3.7 Non-Involvement in Prohibited Activities in Russia or Belarus

Pursuant to applicable State and federal law, a person or entity seeking to enter into or renew a contract with the PFRSNJ for the provision of goods or services shall certify that it is not identified on the U.S. Department of the Treasury's, Office of Foreign Assets Control's Consolidated Sanctions List. Accordingly, the Bidder shall submit a Certification of Non-Involvement in Prohibited Activities. If a Bidder does not submit the completed certification with their proposal, the Bidder must submit the completed certification within seven (7) business days of the PFRSNJ's request.

The Certification of Non-Involvement in Prohibited Activities can be found in **Attachment A7**.

3.3.8 MacBride Principles Form

Pursuant to N.J.S.A. 52:34-12.2, the Bidder must certify that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein, or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles. If the form is not submitted with the proposal, then the Bidder must submit the completed form within seven (7) business days of the PFRSNJ's request.

The MacBride Principles Form can be found in **Attachment A8**.

3.3.9 Confidentiality/Commitment to Defend

Pursuant to the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., or the common law right to know, Bids can be released to the public in accordance with N.J.A.C. 17:12-1.2(b) and (c).

The Bidder should submit a completed and signed Confidentiality/Commitment to Defend Form with the proposal. In the event that the Bidder does not submit the Confidentiality form with the proposal, then the Bidder must submit the completed form within seven (7) business days of the PFRSNJ's request or the PFRSNJ may deem the proposal non-responsive.

After the opening of sealed proposals, all information submitted by a Bidder in response to an RFP is considered public information notwithstanding any disclaimers to the contrary submitted by a Bidder.

Proprietary, financial, security, and confidential information may be exempt from public disclosure by OPRA and/or the common law when the Bidder has a good faith, legal/factual basis for such assertion.

When the RFP contains a negotiation component, the proposal will not be subject to public disclosure until a notice of intent to award a Contract is announced.

As part of its proposal, a Bidder may request that portions of the proposal be exempt from public disclosure under OPRA and/or the common law. The Bidder must provide a detailed statement clearly identifying those sections of the proposal that it claims are exempt from production, and the legal and factual basis that supports such exemption(s) as a matter of law. The PFRSNJ will not honor any attempts by a Bidder to designate it's the entire proposal as proprietary and/or confidential, and/or to claim copyright protection for its entire proposal. If the PFRSNJ does not agree with a Bidder's designation of proprietary and/or confidential information, the PFRSNJ will use commercially reasonable efforts to advise the Bidder. Copyright law does not prohibit access to a record which is otherwise available under OPRA.

The PFRSNJ reserves the right to make the determination as to what material(s) to disclose in response to an OPRA request. Any information that the PFRSNJ determines to be exempt from disclosure under OPRA will be redacted.

In the event of any challenge to the Bidder's assertion of confidentiality that is contrary to the PFRSNJ's determination of confidentiality, the Bidder shall be solely responsible for defending its designation, and in doing so, all costs and expenses associated therewith shall be the responsibility of the Bidder. The PFRSNJ assumes no such responsibility or liability.

In order not to delay consideration of the proposal or the PFRSNJ's response to a request for documents, the PFRSNJ requires that the Bidder respond to any request regarding confidentiality markings within the timeframe designated in the PFRSNJ's correspondence regarding confidentiality. If no response is received by the designated date and time, the PFRSNJ may release a copy of the proposal with the PFRSNJ making the determination regarding what material(s), if any, may be proprietary or confidential.

The Confidentiality/Commitment to Defend Form can be found in **Attachment A9**.

3.3.10 Certificate of Insurance

The Contractor is required to secure and maintain in force for the term of the contract insurance as provided in Section 4.2 of the Standard Terms and Conditions and Section 4.11 of this RFP. The Bidder must submit proof of insurance (ACORD form) as provided in the Standard Terms and Conditions. If a Bidder does not submit proof of insurance with the proposal, then the Bidder must submit the proof of insurance within seven (7) business days of the PFRSNJ's request.

3.3.11 Political Contribution Disclosure

Pursuant to Section 2.9 of the Standard Terms and Conditions the Contractor is required to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) if in a calendar year the Contractor receives one or more contracts valued at \$50,000.00 or more. It is the Contractor's responsibility to determine if the filing is necessary. If the Bidder does not submit the Certification and Political Contribution Disclosure Form Public Law 2005, Chapter 271, then the Bidder must submit the Certification at least ten (10) days prior to entering into the Contract.

The Certification and Political Contribution Disclosure Form Public Law 2005, Chapter 271 can be found in **Attachment A10**.

3.4 Additional Terms Submitted with the Proposal

A Bidder may submit additional terms as part of its Proposal. Additional terms are Bidder-proposed terms or conditions that do not conflict with the scope of work required in this RFP, the terms and conditions of this RFP, or the Standard Terms and Conditions. It is the Bidder's responsibility to identify and remove conflicting proposed terms and conditions prior to Proposal submission. **Proposals that contain conflicting terms may result in the Proposal being deemed non-responsive.**

4.0 TERMS AND CONDITIONS

The State of New Jersey Combined Standard Terms and Conditions (Rev. June 3, 2025) ("Standard Terms and Conditions"), as modified in Section 4.11, are incorporated herein by reference, are in addition to the terms and conditions set forth in this RFP, and should be read in conjunction with them. The Standard Terms and Conditions are available in Attachment A3. Unless specifically stated within this RFP, the Modifications and Changes to the Standard Terms and Conditions (as contained in Section 4.11 of this RFP) take precedence over the Standard Terms and Conditions accompanying this RFP.

4.1 Contract Term and Extension Option

It is anticipated the Board will award a contract with an initial term of five (5) years with two (2) additional one (1) year periods beyond the initial term. All terms and conditions of this RFP will be incorporated by reference in the contract. The Board reserves the right to terminate this engagement at any time at the Board's convenience and without cause.

4.2 Amendment

Any changes or modifications to the contract shall be valid only when they have been reduced to writing and signed by both parties.

4.3 Ownership of Material

All data, technical information, materials gathered, originated, developed, prepared, used, or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of the PFRSNJ respectively and shall be delivered to the PFRSNJ upon thirty (30) days' notice to the Contractor.

4.4 Data Confidentiality

All financial, statistical, personnel, customer, and/or technical data supplied by the PFRSNJ to the Contractor are confidential. The Contractor must secure all data from manipulation, sabotage, theft, or breach of confidentiality. The Contractor is prohibited from releasing any financial, statistical, personnel, customer, and/or technical data supplied by the PFRSNJ that is deemed confidential. Any use, sale, or offering of this data in any form by the Contractor, or any individual or entity in the Contractor's charge or employ, will be considered a violation of the contract and may result in contract termination and the

Contractor's suspension or debarment from State contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution. The Contractor shall assume total financial liability incurred by the State (including the PFRSNJ) associated with any breach of confidentiality.

4.5 Security Standards

The Contractor shall maintain network security that, at a minimum, includes: network firewall provisioning, intrusion detection and prevention, vulnerability assessments and regular independent third-party penetration testing. The Contractor shall maintain network security that conforms to current standards set forth and maintained by the National Institute of Standards and Technology (NIST), or other standards that align with security best practices published by the SANS Institute, including the most recent CIS Controls recommended by the Center for Internet Security.

The Contractor shall protect and maintain the security of data in accordance with generally accepted industry practices.

Data usage, storage, and protection are subject to any applicable federal and state regulatory requirements.

The Contractor shall only transmit or exchange PFRSNJ data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the PFRSNJ. The Contractor shall only transmit or exchange data with the PFRSNJ or other parties through secure means supported by current technologies. All provisions applicable to data include data in any form of transmission or storage, including, but not limited to, database files, text files, backup files, log files, XML files, and printed copies of the data.

All PFRSNJ-provided data shall be used expressly and solely for the purposes enumerated in the contract. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of the Contractor. No PFRSNJ-provided data of any kind shall be transmitted, exchanged or otherwise passed to other contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by the PFRSNJ Contract Manager.

The Contractor shall comply with all applicable State and federal laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of the Contractor's security obligations or other event requiring notification under applicable law ("Notification Event"), the Contractor shall assume responsibility for informing the PFRSNJ Contract Manager and all such individuals in accordance with applicable law and to indemnify, hold harmless, and defend the State (including but not limited to the PFRSNJ) its officials, and employees from and against any claims, damages, or other harm related to such Notification of Event.

4.6 News Releases

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

4.7 Advertising

The Contractor shall use neither the State's nor the PFRSNJ's name, logos, images, or any data or results arising from the services performed under this RFP as part of any commercial advertising without first obtaining the prior written consent of the Executive Director.

4.8 Licenses and Permits

The Contractor shall obtain and maintain in full force and affect all required license, permits, and authorizations necessary to perform the services under this RFP. The Contractor shall, upon request, supply the PFRSNJ Contract Manager with evidence of all such licenses, permits and authorizations. All costs associated with any such licenses, permits and authorizations must be considered by the Bidder in its proposal.

4.9 Claims and Remedies

All claims asserted against the State (including the PFRSNJ) by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

Nothing in this RFP or any contract awarded pursuant thereto shall be construed to be a waiver by the State (including the PFRSNJ) of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the PFRSNJ.

In the event the Contractor fails to comply with any material contract requirements, the PFRSNJ may take steps to terminate the contract in accordance with the Standard Terms and Conditions, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting Contractor's price either being deducted from any monies due to the defaulting Custodian or being an obligation owed the State by the defaulting Contractor as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

4.10 Additional Work

The Contractor shall not perform additional work without first obtaining written approval from both the PFRSNJ Contract Manager and either the Chief Financial Officer or the Executive Director. In the event of additional work and/or special projects, the Contractor must present a written proposal to perform the additional work to the PFRSNJ Contract Manager. The proposal should provide justification for the necessity of the additional work. The relationship between the additional work and the base contract work must be clearly established by the Contractor in its proposal.

The Contractor's written proposal must provide a detailed description of the work to be performed, broken down by task and subtask. The proposal should also contain details on the level of effort, including hours, labor categories, etc., necessary to complete the additional work.

The written proposal must detail the cost necessary to complete the additional work in a manner consistent with the contract. Whenever possible, the price schedule should be a firm, fixed price to perform the required work. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

Upon receipt and approval of the Contractor's written proposal, the PFRSNJ Contract Manager shall forward it to the Chief Financial Officer or the Executive Director for consideration. Approval of the Contractor's written proposal shall be in writing.

No additional work may commence without the Chief Financial Officer or the Executive Director's written approval. In the event the Contractor proceeds with additional work without the Chief Financial Officer or the Executive Director's written approval, it shall be at the Contractor's sole risk. The PFRSNJ shall be under no obligation to pay for work performed without the Chief Financial Officer or the Executive Director's written approval.

4.11 Modifications to the Standard Terms and Conditions

Section 1.0 of the Standard Terms and Conditions, part A. is deleted and replaced in its entirety with the following provision:

A. ORDER OF PRECEDENCE

The “Contract” shall consist of the following documents: (1) The Audit Services Agreement (hereinafter “ASA”); (2) this RFP; (3) the Combined State of New Jersey Standard Terms and Conditions; and (4) the Contractor’s Proposal including any attachments or documents incorporated by reference (hereinafter “Proposal”). In the event of a conflict in the terms and conditions among the documents comprising this Contract, the order of precedence, for purposes of interpretation thereof, listed from highest ranking to lowest ranking as noted above. The State’s terms and conditions shall prevail over any conflicts set forth in the Contractor’s Proposal.

Section 4.2 of the Standard Terms and Conditions is supplemented with the following:

Cyber Breach Insurance: The Contractor shall carry Cyber Breach Insurance in an amount sufficient to protect the Contractor from any liability arising out of its performance pursuant to the requirements of this Contract. The insurance shall be in an amount of not less than \$5,000,000 per each occurrence and in such policy forms as shall be approved by the State. The insurance shall at a minimum cover the following: Data loss, malware, ransomware and similar breaches to computers, servers and software; Protection against third-party claims; cost of notifying affected parties; cost of providing credit monitoring to affected parties; forensics; cost of public relations consultants; regulatory compliance costs; costs to pursue indemnity rights; costs to Data Breach and Credit Monitoring Services analyze the insured’s legal response obligations; costs of defending lawsuits; judgments and settlements; regulatory response costs; costs of responding to regulatory investigations; and costs of settling regulatory claims.

Section 4.2 of the Standard Terms and Conditions regarding the Approved Vendor’s insurance is modified by: (i) amending the Certificate Holder to read: “State of New Jersey, Department of the Treasury, Police and Firemen’s Retirement System of New Jersey. 50 West State Street, Suite 1100, Trenton, New Jersey 08608.” and (ii) amending the email address for certificates and notices of cancellation to read: Compliance@pfrs.nj.gov.

Section 4.2 of the Standard Terms and Conditions, part d. of the insurance to be provided by the contractor is deleted and replaced in its entirety with the following provision:

d. Professional Liability Insurance: The Contractor shall carry General Liability insurance in an amount not less than \$1,000,000, Errors and Omissions in an amount not less than \$10,000,000, and Workers Compensation and Employer Liability in an amount not less than \$1,000,000 in such policy forms as shall be approved by the Board. If the Contractor has claims-made coverage and subsequently changes carriers during the term of the Contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage to the date of Contract commencement.

Section 5.7, of the Standard Terms and Conditions, part A. is deleted and replaced in its entirety with the following provision:

A. For Convenience:

Notwithstanding any provision in this contract to the contrary, either party may terminate the engagement at any time, with or without cause, during the term of the engagement upon one hundred and twenty (120) days’ written notice.

Section 5.7, of the Standard Terms and Conditions, part B. is deleted and replaced in its entirety with the following provision:

B. For Cause:

1. Where a contractor fails to perform or comply with a contract or portion thereof, and/or fails

- to comply with the complaint's procedure in N.J.A.C. 17:12-4.2 et seq., the Chief Financial Officer or the Executive Director may terminate the contract, in whole or in part, immediately upon notice to the contractor with an opportunity to respond; and
2. Where in the reasonable opinion of the Chief Financial Officer or the Executive Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, or short-shipping so that the Chief Financial Officer or the Executive Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Chief Financial Officer or the Executive Director may terminate the contract, in whole or in part immediately upon notice to the contractor with an opportunity to respond.

Any and all references in the Standard Terms and Conditions, to the "Director" or the "Director of the Division of Purchase and Property" shall be read as: the "Executive Director of the Police and Firemen's Retirement System of New Jersey."

Any and all references in the Standard Terms and Conditions to "ccau.certificate@treas.nj.gov" shall be read as: "compliance@pfrs.nj.gov."

Where applicable, references to the "Division of Purchase and Property" shall be read as the "PFRSNJ."

Where applicable, any required submissions shall be sent to "The Police and Firemen's Retirement System of New Jersey, 50 West State Street, Suite 1100, Trenton, New Jersey 08608."

5.0 PROPOSAL EVALUATION

5.1 Right to Waive

The Executive Director reserves the right to waive minor irregularities or omissions in a bid proposal. The Executive Director also reserves the right to waive a requirement provided that: (i) the requirement is not mandated by law; (ii) all the otherwise responsive proposals failed to meet the requirement; and (iii) in the sole discretion of the Executive Director, the failure to comply with the requirement does not materially affect the procurement or the State's interests associated with the procurement.

5.2 Right to Award or Reject in Part

The Executive Director reserves the right to recommend the rejection of any or all proposals, or to recommend an award in whole or in part, if the Executive Director deems it to be in the best interest of the PFRSNJ to do so. Notice of such an award or rejection shall be posted on the PFRSNJ website.

5.3 Right to Request Further Information

The Executive Director reserves the right to request all information which may assist him or her in making a recommendation concerning a contract award or rejection to the Board, including factors necessary to evaluate the Bidder's financial capabilities to perform the contract.

The Executive Director reserves the right to request a Bidder to explain, in detail, how the proposal price was determined.

The Executive Director reserves the right to consult with clients of the Bidder during the evaluation of bids.

5.4 Evaluation Committee

Proposals shall be evaluated by an Evaluation Committee consisting of a group of qualified, experienced, and knowledgeable individuals and/or PFRSNJ staff members. The Executive Director may also recommend technical advisors with expertise to assist the Evaluation Committee.

5.5 Oral Presentations and/or Demonstrations

After the submission of proposals, unless requested by the PFRSNJ as noted below, contact between PFRSNJ staff and any Bidder or its employees/representatives regarding the RFP is still not permitted.

After the proposals are reviewed, a Bidder may be asked to clarify certain aspects of its proposal. The process of clarification is not an opportunity for the Bidder to revise or modify its proposal, and any response or portion of a response by the Bidder to a request for clarification that attempts to revise or modify its proposal shall be given no effect.

The Bidder may be required to give an oral presentation to the Evaluation Committee concerning its proposal. The Evaluation Committee may request the Bidder to provide a demonstration of the Bidder's systems. Bidders may not attend the oral presentations or demonstrations of their competitors.

It is within the Executive Director's discretion whether to request a Bidder to clarify its proposal or to give an oral presentation. Such a request should not be construed to imply acceptance or rejection of a proposal.

5.6 Evaluation Criteria

All proposals will be reviewed to determine responsiveness. Non-responsive proposals will be rejected without evaluation. Responsive proposals will be evaluated by the Evaluation Committee.

The following evaluation criteria categories, separate or combined in some manner, and not necessarily listed in order of significance, will be used to evaluate proposals received in response to this RFP. The evaluation criteria categories may be used to develop more detailed evaluation criteria to be used in the evaluation process:

- Organization
 - Firm
 - Firm's support staff
 - Client service
- Fees

5.7 Pricing Discrepancies

If, during the proposal evaluation process, it is discovered that there is an arithmetic disparity between the unit price and the total extended price, the unit price shall prevail. In the event of such disparity, the Executive Director will request, in writing, confirmation by the Bidder of the revised total extended price. The Bidder will have five (5) business days after receipt of the request to confirm the price. If the Bidder fails to respond, its proposal shall be considered withdrawn, and no further consideration shall be given to it. The Bidder may only confirm and may not modify or amend its price. The Executive Director shall determine whether any intended confirmation is a modification or amendment.

If any other obvious pricing error is found, the Executive Director shall issue a written request for confirmation to the Bidder. The Bidder will have five (5) business days after receipt of the request to confirm its pricing. If the Bidder fails to respond, its proposal shall be considered withdrawn, and no further

consideration shall be given to it. The Bidder may only confirm and may not modify or amend its price. The Executive Director shall determine whether any intended confirmation is a modification or amendment.

If there is an ambiguity in the pricing, other than a disparity between the unit price and extended price or other obvious pricing error, and the Bidder's intention is not readily discernible from other parts or the proposal, the Executive Director shall issue a written request for clarification to the Bidder. The Bidder will have five (5) business days after receipt of the request to clarify its pricing. If the Bidder fails to respond, its proposal shall be considered withdrawn, and no further consideration shall be given to it.

5.8 Negotiation and Best and Final Offer (BAFO)

After evaluating proposals, the PFRSNJ may enter into negotiations with one Bidder or multiple Bidders. The primary purpose of negotiations is to maximize the State's ability to obtain the best value based on the mandatory requirements, evaluation criteria, and cost. Negotiations will be structured by the PFRSNJ to safeguard information and ensure that all Bidders are treated fairly.

Additionally, the Board may invite one Bidder or multiple Bidders to submit a best and final offer (BAFO). The invitation will establish the time and place for submission of the BAFO. Any BAFO that is not equal to or lower in price than the pricing offered in the Bidder's original proposal will be rejected as a nonresponsive BAFO, and the PFRSNJ will revert to consideration and evaluation of the Bidder's original pricing.

If required, after review of the BAFO(s), clarification may be sought from the Bidder(s). The PFRSNJ may conduct more than one round of negotiation and/or BAFO in order to attain the best value for the State.

Negotiations will be conducted and/or BAFO(s) requested only in those circumstances where they are deemed by the PFRSNJ or the Executive Director to be in the State's best interests and to maximize the State's ability to obtain the best value. Therefore, the Bidder is advised to submit its best technical and price proposal in response to this RFP since the PFRSNJ may, after evaluation, make a contract award based on the content of the initial submission without further negotiation with or BAFO from, any Bidder.

5.9 Proposal Recommendation

After evaluation of proposals and, as applicable, negotiation(s) and/or BAFO(s), the Evaluation Committee will recommend to the Audit Committee, the responsible Bidder(s) whose proposal(s), conforming to the RFP, is/are most advantageous to the PFRSNJ price and other factors considered. The Audit Committee will make a recommendation to the Board, based upon its review of the recommendation(s) of the Evaluation Committee. Based upon its review of the recommendations of the Evaluation Committee and the Audit Committee the Board may initiate additional negotiation of BAFO procedures with any Bidder(s).

Until a Notice of Intent to Award the contract is issued, all contacts, records of initial evaluations, any correspondence with Bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or price proposals, the Evaluation Committee Report, and the Award Recommendation will remain confidential. After a Notice of Intent to Award a contract has been issued, materials relating to the procurement and any applicable documentation relating to any negotiations will only be made available to the non-winning Bidders and to any taxpayer considering filing a protest of the Notice of Intent to Award during the applicable protest period and prior to the execution of one or more contracts pursuant to this RFP.

6.0 CONTRACT AWARD

6.1 Award or Rejection of Proposals

The Board retains the authority to decide whether to accept, reject, or modify the Evaluation Committee and/or the Audit Committee's recommendation(s) concerning the RFP. The Board may refer the matter back to the Evaluation Committee, Audit Committee, and/or PFRSNJ staff for further consideration. The Board has the discretion to enter into an agreement with any Bidder meeting the requirements on the terms and for the compensation that the Board deems appropriate, or to reject all proposals when the Board determines it appropriate to do so.

If the Board decides to enter into an agreement(s) with one or more Bidder(s), the resulting agreement shall include language addressing any confidentiality or other agreement that the PFRNJ may be required to agree to in order to access any website maintained or utilized by the Bidder for the purposes of making documents available, delivering notices, or providing data to the PFRSNJ (each, a "Website Agreement").

6.2 Notice of Intent to Award; Protests

Upon approval by the Board, the Executive Director shall post a Notice of Intent to Award on the PFRSNJ website. In the event that the Board determines that all proposals shall be rejected or no award shall be made, the Executive Director shall post a notice of such determination on the PFRSNJ website.

A non-successful Bidder, within ten (10) business days following the Notice of Intent to Award, may submit a written protest. If a contract award is protested, the Board shall not award the contract in question until a final decision is rendered on the merits of the protest, unless the Board finds that the failure to award the contract will result in substantial cost to the PFRSNJ or the State or that public exigency so requires. In such event, the PFRSNJ shall notify all interested parties.

Protests must be timely filed with the Executive Director, and must concern one or more of the following:

- i. Rejection of the Bidder's proposal for failing to meet the requirements, as set forth in the RFP. Such protest may not challenge the validity of the requirements, but rather may assert that the Bidder does meet such requirements; and/or
- ii. A challenge to a term, condition, or requirement of a specification contained within the RFP; or
- iii. Notice of Intent to Award contract(s) to another Bidder as part of the same procurement; or
- iv. A challenge to the Board and/or Executive Director's cancellation of the RFP after the opening of proposals.

A protest shall contain the following:

- i. Identification of the particular procurement;
- ii. The specific grounds for challenging the proposal rejection, the notice of intent to award, or the cancelation, including all arguments, materials, and/or other documentation that may support the protester's position; and
- iii. A statement as to whether the protester requests an opportunity for an in-person presentation and the reason(s) for the request.

If the Executive Director, in consultation with the Chairman of the Board, determines that the contract award was properly protested, the Executive Director shall immediately submit to the Board, the protest and related materials.

The Executive Director may request that a Bidder file a response to a protest. Responses and replies are at the discretion of the Executive Director.

The Board is entitled to request, receive, and review copies of any and all records and documents deemed appropriate and relevant to the issues and arguments set forth in the protest. Upon receipt of any such request, the Bidder shall promptly provide the requested records and documents in the time, place, and manner specified in the request. Failure to do so may constitute a reasonable basis for the Board to resolve the protest against the Bidder submitting the protest. The Board may also consider relevant information requested and received from other parties as the Board deems appropriate.

The Board may disregard any protest not containing all of the items set forth above or filed after the ten (10) day protest period. The Board may designate an individual, from within or outside the PFRSNJ, to perform a review of the written record and conduct an in-person presentation. In the case of a review or in-person presentation being handled by a reviewer from outside the PFRSNJ, the determination of such designee shall be in the form of a report to the Board (and copied to the Executive Director), which shall not be binding on the Board but rather advisory in nature. The protesting party shall receive a copy of the reviewer's report and shall have a period of ten (10) business days to provide written comments or exceptions to the report, to the Board (and copied to the Executive Director).

The Board shall make a final written decision on the protest based on the Board's review of the written record including, but not limited to, the written protest, the terms, conditions and requirements of the RFP, the proposals submitted in response to the RFP, written reports and/or the award recommendation documents, pertinent administrative rules, statutes and case law, and any associated documentation deemed appropriate. In cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing.

Protests are not contested cases subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 to - 31, nor the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Final agency determinations by the Board on protests are appealable to the Appellate Division of the Superior Court of New Jersey.

7.0 CONTRACT MANAGER

The PFRSNJ may designate a Contract Manager responsible for the overall management and administration of the contract, including resolving minor disputes between the Contractor and the PFRSNJ.

The PFRSNJ Contract Manager for the contract will be identified when the contract is awarded.

ATTACHMENT A
RFP FOR AUDIT OF THE
POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY

ATTACHMENT A1



OWNERSHIP DISCLOSURE FORM

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

VENDOR NAME: _____

PURSUANT TO N.J.S.A. 52:25-24.2, ALL PARTIES ENTERING INTO A CONTRACT WITH THE STATE ARE REQUIRED TO PROVIDE A STATEMENT OF OWNERSHIP.
Please answer all questions and complete the information requested.

- | | | |
|--|-----|----|
| | YES | NO |
| 1. The vendor is a Non-Profit Entity ; and therefore, no disclosure is necessary. | | |
| 2. The vendor is a Sole Proprietor ; and therefore, no other disclosure is necessary.
A Sole Proprietor is a person who owns an unincorporated business by himself or her-self.
A limited liability company with a single member is not a Sole Proprietor. | | |
| 3. The vendor is a corporation, partnership, or limited liability company with individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest; and therefore, disclosure is necessary. | | |

If you answered **YES** to Question 3, you must disclose the information requested in the space below:*

- (a) the names and addresses of all stockholders in the corporation who own 10% or more of its stock, of any class;
- (b) all individual partners in the partnership who own a 10% or greater interest therein; or,
- (c) all members in the limited liability company who own a 10% or greater interest therein.

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|---|-----|----|
| | YES | NO |
| 4. For each of the corporations, partnerships, or limited liability companies identified in response to Question #3 above, are there any individuals, partners, members, stockholders, corporations, partnerships, or limited liability companies owning a 10% or greater interest of those listed business entities? | | |

If you answered **YES** to Question 4, you must disclose the information requested in the space below:*

- (a) the names and addresses of all stockholders in the corporation who own 10% or more of its stock, of any class;
- (b) all individual partners in the partnership who own a 10% or greater interest therein; or,
- (c) all members in the limited liability company who own a 10% or greater interest therein. The disclosure(s) shall be continued until the names and addresses of every non-corporate stockholder, individual partner, and/or member a 10% or greater interest has been identified.

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5. As an alternative to completing this form, a Vendor with any direct or indirect parent entity which is publicly traded, may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10% or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10% or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and the relevant page numbers of the filings that contain the information on each person that holds a 10% or greater beneficial interest.*

* Attach additional sheets if necessary

ATTACHMENT A2

THE POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY

CERTIFICATIONS REQUIRED WITH PROPOSAL SUBMISSION

By submitting a proposal in response to the **PFRSNJ's Request for Proposals for Audit of the Police and Firemen's Retirement System of New Jersey**,

I, _____, _____, _____, hereby certify:
(name) (title) (institution/firm)

1. The submission is accurate and complete.
2. The submission was prepared solely by _____, and not discussed with any individual outside of _____ other than as specifically disclosed herein or as contemplated by the Request for Proposals.
3. The price(s) and amount quoted in the proposal have been arrived at independently and without consultation, communication, or agreement with any other Bidder or potential Bidder.
4. Neither the price(s) nor the amount quoted in the proposal, and neither the approximate price(s) nor approximate amount quoted in the proposal, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before the deadline for proposal submission.
5. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
6. The proposal is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
7. _____ and its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted of, or found liable for, any act prohibited by State or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
8. I have read the Business Ethics Guide established by the State Treasurer (cited in Section 2.11 of the State of New Jersey Standard Terms and Conditions), understand its provisions, and _____ is in compliance with its provisions.

_____,
By:

(signature)

(date)

(print name)

(title)

ATTACHMENT A3



State of New Jersey Combined Standard Terms and Conditions

(Revised June 3, 2025)

1.0 STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

The following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey.

A. ORDER OF PRECEDENCE

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

B. NO ARBITRATION

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

C. NO AUTO-RENEWAL

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

2.0 STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

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

2.1 BUSINESS REGISTRATION

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

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

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

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

2.2 OWNERSHIP DISCLOSURE

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

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

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

2.3 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

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

2.4 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions Contracts (Exhibit B and Exhibit C - Executive Order 151 Requirements) as appropriate.

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

2.5 AFFIRMATIVE ACTION

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

2.6 AMERICANS WITH DISABILITIES ACT

The Contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.7 MACBRIDE PRINCIPLES

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

2.8 PAY TO PLAY PROHIBITIONS

New Jersey law insulates the negotiation and award of State contracts from political contributions that pose a risk of improper influence, purchase of access or the appearance thereof. P.L.2005, c.51, as amended by the Elections Transparency Act, P.L.2023, c.30, codified at N.J.S.A. 19:44A-20.13 to 20.25 ("Chapter 51") and Executive Order 333 (2023).

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L.2005, c.51, rev. P.L.2023, c.30), a "fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and publicly opened and announced when awarded. A contract awarded under a process that includes public bidding or competitive contracting pursuant to State contracts law shall constitute a fair and open process. N.J.S.A. 19:44A-20.23. The agency conducting the procurement will need to determine whether the procurement meets the Election Transparency Act definition of a "fair and open process" and instruct vendors on the applicability of Chapter 51.

A. For Contracts Awarded Pursuant to a Fair and Open Process

Pursuant to P.L.2005, c.51, as amended by the Elections Transparency Act, P.L.2023, c.30, codified at N.J.S.A. 19:44A-20.13 to 20.25 ("Chapter 51"), and Executive Order No. 333 (2023), contracts awarded pursuant to a fair and open process do not require a certification or disclosure of any solicitation or contribution of money, or pledge of contribution, including in-kind contributions.

B. For Contracts Awarded Pursuant to a Non-Fair and Open Process

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L.2005, c.51, rev. P.L.2023, c.30), and Executive Order 333 (2023), the State shall not enter into a Contract to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a Continuing Political Committee or to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor during certain specified time periods. It shall be a breach of the terms of the contract for the Business Entity to:

- (1) Make or solicit a contribution in violation of the statute;
- (2) Knowingly conceal or misrepresent a contribution given or received;
- (3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;

- (4) Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor or Lieutenant Governor;
- (5) Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
- (6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- (7) Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- (8) Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the Contract, and any extension(s) thereof, at the time any such contribution is made.

A "Continuing Political Committee" means any political organization (a) organized under section 527 of the Internal Revenue Code; and (b) consisting of any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$5,500 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office, or the passage or defeat of a public question or public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined to be a Continuing Political Committee by the New Jersey Election Law Enforcement Commission under N.J.S.A.19:44A-8. A Continuing Political Committee does not include a "political party committee," a "legislative leadership committee," or an "independent expenditure committee," as defined in N.J.S.A. 19:44A-3.

Prior to awarding any Contract or agreement to any Business Entity pursuant to a non-fair and open process, the Business Entity proposed as the intended Contractor of the Contract shall submit the Two-Year Chapter 51 /Executive Order 333 Vendor Certification and Disclosure of Political Contributions for Non-Fair and Open Contracts, certifying either that no contributions to a Continuing Political Committee or to a candidate committee or election fund of a gubernatorial candidate have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division of Purchase and Property's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>.

2.9 POLITICAL CONTRIBUTION DISCLOSURE

The Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L.2005, c.271, rev. P.L.2023, c.30) if in a calendar year the Contractor receives one or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at <http://www.elec.state.nj.us/>.

2.10 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on Contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

- A. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g;
- B. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards, now known as the State Ethics Commission;
- C. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, now known as the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;
- D. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;
- E. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

- F. The provisions cited above in paragraphs 2.8A through 2.8E shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards, now known as the State Ethics Commission may promulgate under paragraph 3c of Executive Order No. 189.

2.11 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION

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

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

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

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

2.13 COMPLIANCE - LAWS

The Contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2.14 CHOICE OF LAW

It is agreed and understood that any contracts and/or orders placed as a result of this Proposal shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.15 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

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

2.16 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS

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

2.17 DISCLOSURE OF PROHIBITED ACTIVITIES WITH RUSSIA OR BELARUS

Pursuant to N.J.S.A. 52:32-60.1 et seq. (P.L.2022, c.3), a person or entity seeking to enter into or renew a contract for the provision of goods or services shall certify that it is not identified on the list of persons or entities engaging in prohibited activities in Russia or Belarus. Consistent with the federal law, the list of persons and entities engaging in prohibited activities in Russia or Belarus shall consist of all persons and entities appearing on the list of Specially Designated Nationals and Blocked Persons promulgated by the Office of Foreign Assets Control (OFAC) on account of activity relating to Russia or Belarus.

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

3.1 COMPLIANCE - CODES

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

3.2 PREVAILING WAGE ACT NOTICE

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into by or on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The Contractor's signature on Proposal is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by Proposal has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of

the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the Contractor's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by Proposal shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

3.3 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all Contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A. 34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance.

3.4 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

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

- A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no Contractor, nor any person acting on behalf of such Contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;
- B. No Contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;
- C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and
- D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the Contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the Contractor must agree as follows:

- A. The Contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;
- B. The Contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;
- C. The Contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment, N.J.A.C. 17:27-3.7 requires all Contractors and subcontractors, if any, to further agree as follows:
 1. The Contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;
 2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;
 3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and
 4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.5 BUILDING SERVICE

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

3.6 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.7 SERVICE PERFORMANCE WITHIN U.S.

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

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

3.8 BUY AMERICAN

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

3.9 DOMESTIC MATERIALS

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

3.10 DIANE B. ALLEN EQUAL PAY ACT

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

3.11 EMPLOYEE MISCLASSIFICATION

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

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

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

3.12 CYBERSECURITY INCIDENT REPORTING REQUIREMENT

Pursuant to N.J.S.A. 52:17B-193.2 et seq. (P.L.2023, c.19), Contractors that have access to, or host the State's network(s), system(s), application(s), or information shall report Cybersecurity Incidents to the New Jersey Office of Homeland Security and Preparedness (NJ OHSP) at <https://www.cyber.nj.gov/report/> within 72 hours of when the Contractor reasonably believes that a Cybersecurity Incident has occurred.

Consistent with N.J.S.A. 52:17B-193.2, "Cybersecurity Incident" means a malicious or suspicious event occurring on or conducted through a computer network that jeopardizes the integrity, confidentiality, or availability of an information system or the information the system processes, stores, or transmits.

Consistent with N.J.S.A. 52:17B-193.3(f), any Cybersecurity Incident notification submitted to the NJ OHSP shall be deemed confidential, non-public, and not subject to the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as the New Jersey Open Public Records Act, as amended and supplemented, and may not be discoverable in any civil or criminal action or subject to subpoena, unless the subpoena is issued by the New Jersey State Legislature and deemed necessary for the purposes of legislative oversight.

This reporting required by N.J.S.A. 52:17B-193.2 et seq. (P.L.2023, c.19) to NJ OHSP is in addition to the Contractor's responsibility to report Security Incidents as may be set forth in Contract Scope of Work or the Waivered Contracts Supplement to the State of New Jersey Terms and

Conditions. If the Waivered Contracts Supplement is not made part of the contract and a notification period is not specified in the Contract Scope of Work, the Contractor shall give notice of the Cybersecurity Incident to the Using Agency as soon as practicable, but no less than one business day, after the Contractor reasonably believes that a Cyber Security Incident has occurred.

4.0 INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

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

1. The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its officers, officials, agents, servants and employees, from and against any and all third-party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - a. For or on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under this Contract or the order; and
 - b. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of this Contract.
2. In the event of a patent and copyright claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may:
 - a. procure for the State of New Jersey the legal right to continue the use of the product;
 - b. replace or modify the product to provide a non-infringing product that is the functional equivalent; or
 - c. in the event that the Contractor cannot do "a." or "b.", refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

B. The contractor's indemnification and liability under subsection "A." is not limited by but is in addition to the insurance obligations. The provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the contract or otherwise at law or equity. The Contractor agrees that any approval by the State of the work performed and/or reports, plans or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract.

C. Contractor will be relieved of its responsibilities under Subsection "A." for any claims made by a third-party that arise solely from the actions or omissions of the State, its officers, employees or agents.

D. Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Subsection A.1 which results in an unaffiliated third party claim.

E. The State will:

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

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

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

4.2 INSURANCE

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

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

- a. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;
- b. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury

and property damage shall not be less than \$1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;

- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:
 - o \$1,000,000 BODILY INJURY, EACH OCCURRENCE;
 - o \$1,000,000 DISEASE EACH EMPLOYEE; and
 - o \$1,000,000 DISEASE AGGREGATE LIMIT.

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

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

5.0 TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

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

5.2 FORCE MAJEURE

Neither party will be liable to the other for any delay or inability to perform its obligations if such delay or inability arises from any act of God, fire, natural disaster, act of war (declared or undeclared), act of terrorism (domestic or international), riot, civil disturbance, pandemic or other public health crisis (arising during the term of the contract) In the event of such a delay or inability to perform, the time for performance will be extended by an amount reasonable under the specific circumstances and mutually agreed-upon date sufficient to allow Contractor to perform the work delayed by the force majeure.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

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

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

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

5.5 CHANGE IN LAW

If, after award, a change in applicable law or regulation occurs which affects the Contract, the parties may amend the Contract, whether including new work required by the change in law or to eliminate work no longer required by the change in law along with a commensurate price change. The parties shall negotiate the terms of the change in good faith, however if agreement is not possible after reasonable efforts, the Director shall make a prompt decision taking all relevant information into account, and shall notify the Contractor of the final adjusted scope of work and contract price.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance.

5.7 TERMINATION OF CONTRACT

A. For Convenience:

Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;

B. For Cause:

1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and
2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.

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

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

5.8 SUBCONTRACTING

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

5.9 RESERVED

5.10 MERGERS, ACQUISITIONS AND ASSIGNMENTS

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

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

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

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

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

5.12 DELIVERY REQUIREMENTS

- A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;
- B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;
- C. Items delivered must be strictly in accordance with the contract; and
- D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor. Unless otherwise noted elsewhere in the scope of work, all delivery times are 30 calendar days after receipt of order (ARO) and prices for items in proposals shall be submitted Freight On Board (F.O.B.) Destination (30 calendar days ARO/F.O.B.).
- E. The contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's Using Agency or designated purchaser. Thirty-calendar days ARO/F.O.B. does not cover "spotting" but does include delivery on the receiving platform of the Using Agency at any destination in the State of New Jersey unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at the contractor's convenience when a single shipment is ordered. The weights and measures of the State's Using Agency receiving the shipment shall govern.
- F. Collect On Delivery (C.O.D) terms will not be accepted.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

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

5.15 MAINTENANCE OF RECORDS AND AUDITS

- A. Pursuant to N.J.A.C. 19:70-1.6(b), the contract partner as that term is defined pursuant to N.J.A.C. 19:70-1.2, shall maintain all documentation related to products, transactions, or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request.
- B. The State may request, receive, review, and audit copies of any and all records and documents related to a State contract at any time. The Contractor shall make a good faith effort to cooperate with the request and upon receipt of the request, the Contractor shall promptly provide the requested records and documents free of charge in the time, place, and manner specified. Failure of the contractor to comply with the request or the audit may be used by the State to establish contract non-compliance, to take any action, or seek any remedy available under the contract, at law, or in equity.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

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

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

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

5.17 NEWS RELEASES

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

5.18 ADVERTISING

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

5.19 ORGAN DONATION

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

5.20 LICENSES AND PERMITS

The Contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Contract. The Contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations required. All costs associated with any such licenses, permits, and authorizations are the responsibility of the Contractor.

5.21 CLAIMS AND REMEDIES

- A. All claims asserted against the State by the Contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.
- B. Nothing in this Contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.
- C. In the event that the Contractor fails to comply with any material Contract requirements, the Director may take steps to terminate this Contract in accordance with the SSTC, authorize the delivery of Contract items by any available means, with the difference between the price paid and the defaulting Contractor's price either being deducted from any monies due the defaulting Contractor or being an obligation owed the State by the defaulting Contractor, as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

5.22 ACCESSIBILITY COMPLIANCE

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

5.23 CONFIDENTIALITY

- A. The obligations of the State under this provision are subject to the New Jersey Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., the New Jersey common law right to know, and any other lawful document request or subpoena;
- B. By virtue of this Contract, the parties may have access to information that is confidential to one another. The parties agree to disclose to each other only information that is required for the performance of their obligations under this Contract. Contractor's Confidential Information, to the extent not expressly prohibited by law, shall consist of all information clearly identified as confidential at the time of disclosure Contractor Intellectual Property ("Contractor Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Contract are subject to disclosure under OPRA, the common law right to know, and any other lawful document request or subpoena;
- C. The State's Confidential Information shall consist of all information or data contained in documents supplied by the State, any information or data gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not);
- D. A party's Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party, except that if the information is personally identifying to a person or entity regardless of whether it has become part of the public domain through other means, the other party must maintain full efforts under the Contract to keep it confidential; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party;
- E. The State and the Contractor agree to hold each other's Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;
- F. In the event that the State receives a request for Contractor Confidential Information related to this Contract pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Contractor with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Contractor shall take any action it deems appropriate to protect its documents and/or information;
- G. In addition, in the event Contractor receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Contractor shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Contractor's intended response to such order of law. The State shall take any action it deems appropriate to protect its documents and/or information; and
- H. Notwithstanding the requirements of nondisclosure described in this Section, either party may release the other party's Confidential Information:
 - (i) if directed to do so by a court or arbitrator of competent jurisdiction; or

- (ii) pursuant to a lawfully issued subpoena or other lawful document request:
 - (a) in the case of the State, if the State determines the documents or information are subject to disclosure and Contractor does not exercise its rights as described in Section 5.23(F), or if Contractor is unsuccessful in defending its rights as described in Section 5.23(F); or
 - (b) in the case of Contractor, if Contractor determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.23(G), or if the State is unsuccessful in defending its rights as described in Section 5.23(G).

5.24 SUSPENSION AND DEBARMENT NOTICE

The Contractor is advised that pursuant to Executive Order 34 (1976), the Department of the Treasury maintains a list of all individuals or entities that have been debarred or suspended from conducting business within the State of New Jersey. The Contractor understands that it may be excluded from any contract award consideration due to debarment, suspension, or disqualification and such exclusion shall apply universally across all state contracting and subcontracting activities under the jurisdiction of the department or agency imposing the exclusion.

5.25 WORKPLACE ACCOUNTABILITY IN LABOR LIST

The Contractor is further advised that pursuant to N.J.S.A. 34:1A-1.16 et seq., if any person, as defined by the Act, is found to be in violation of any State wage, benefit, or tax laws and against whom a final order has been issued by the commissioner or other appropriate agency officer for any violation of State wage, benefit and tax laws, such person shall be prohibited from contracting with any public body until the liability for violations of State wage, benefit, and tax laws have been resolved to the satisfaction of the Commissioner of the Department of Labor and Workforce Development or the Commissioner's duly authorized representative.

6.0 TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date. Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1. In an exceptional situation the State may consider a price adjustment. Requests for price adjustments must include justification and documentation.

6.2 TAX CHARGES

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

6.3 PAYMENT TO CONTRACTORS

- A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;
- B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the Bill of Lading, and/or other documentation to confirm shipment and receipt of contracted goods must be received by the using agency prior to payment. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work and must be in strict accordance with the firm, fixed prices submitted for each task or subtask. When applicable, invoices should reference the appropriate task or subtask or price line number from the contractor's proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;
- C. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and
- D. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Office of Diversity and Inclusion.
- E. The Contractor shall have sole responsibility for all payments due any Subcontractor.
- F. If the contractor offers a cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts. Should the contractor choose to offer cash discounts the following shall apply:
 - 1. Discount periods shall be calculated starting from the next business day after the Using Agency has accepted the goods or services, received a properly signed and executed invoice and, when required, a properly executed performance security, whichever is the latest; and
 - 2. The date on the check issued by the State in payment of that invoice shall be deemed the date of the State's response to that invoice.

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds \$5.00 per properly executed invoice. Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds.

6.7 RETAINAGE

If the Using Agency has required retainage for the Contract, the Using Agency will retain the stated percentage or retainage from each invoice. Payment of retainage will be authorized after satisfactory completion and submission of all services, deliverables or work products by the contractor and acceptance by the Using Agency of all services, deliverables or work products required by the Contract.

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

6.8 PERFORMANCE SECURITY

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

1. A properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey,
2. A certified or cashier's check drawn to the order of "Treasurer, State of New Jersey," or
3. An irrevocable letter of credit issued by a federally insured financial institution and naming "Treasurer, State of New Jersey," as beneficiary.

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

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

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

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

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

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

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

Pursuant to the State's responsibility under 2 CFR 200.321, the State requires that if subawards are to be made the Contractor shall:

- (1) Include small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) in solicitation lists;
- (2) Assure that these business types are solicited whenever they are deemed eligible as potential sources;
- (3) Divide procurement transactions into separate procurements, where possible, to permit maximum participation by these business types;
- (4) Establish delivery schedules, (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business type;
- (5) Utilize organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and,
- (6) Require a Contractor under a Federal award to apply this section to subcontracts.

7.2 DOMESTIC PREFERENCE FOR PROCUREMENTS

Pursuant to 2 CFR 200.322, the State, has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). If subawards are to be made, to the greatest extent practicable and consistent with law, the Contractor shall include a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

For purposes of this section:

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

7.3 PROCUREMENT OF RECOVERED MATERIALS

Where applicable, in the performance of contract, pursuant to 2 CFR 200.323, the Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

The Contractor should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

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

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

7.4 EQUAL EMPLOYMENT OPPORTUNITY

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

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

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and

that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

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

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

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

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

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers

and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, Contractors are required to pay wages not less than once a week.

7.6 COPELAND ANTI-KICK-BACK ACT

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

- a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into the OGS centralized contract.
- b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the clauses above may be grounds for termination of the OGS centralized contract, and for debarment as a Contractor and subcontractor as provided in 29 C.F.R. § 5.12.

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

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

- (1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The unauthorized user shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7.8 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

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

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

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

Clean Air Act

- 7.9.1.1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
- 7.9.1.2 The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- 7.9.1.3 The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation

as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

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

7.10 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the State or authorized user. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State or authorized user, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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

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

7.12 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- (a) Contractors are prohibited from obligating or expending contract funds to:
 - (1) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in *Public Law 115-232*, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

8.0 ADDITIONS TO THE STANDARD TERMS AND CONDITIONS FOR ALL INFORMATION TECHNOLOGY CONTRACTS, AS APPLICABLE

8.1 DEFINITIONS

The following definitions shall apply to information technology contracts:

1. The term "Acceptance" means the written confirmation by an Agency that the contractor has completed a Deliverable according to the specified requirements.
2. As defined by N.J.S.A. 56:8-161, the term "Breach of Security" means unauthorized access to electronic files, media, or data containing Personal Data that compromises the security, confidentiality, or integrity of Personal Data when access to the Personal Data has not been secured by encryption or by any other method or technology that renders the Personal Data unreadable or unusable. Good faith acquisition of Personal Data by an employee or agent of the Contractor for a legitimate business purpose is not a Breach of Security, provided that the Personal Data is not used for a purposes unrelated to the business or subject to further unauthorized disclosure.
3. The term "Contractor Intellectual Property" means any intellectual property that is owned by the contractor and contained in or necessary for the use of the Deliverables or which the contractor makes available for the State to use as part of the work under the Contract. Contractor Intellectual Property includes COTS or Customized Software owned by the contractor, the contractor's technical documentation, and derivative works and compilations of any Contractor Intellectual Property.
4. The term Commercial Off the Shelf Software ("COTS") means Software provided by the contractor that is intended for general use.
5. The term "Custom Software" means Software and Work Product that is developed by the contractor at the request of the Agency to meet the specific requirements of the Agency and is intended for its use.
6. The term "Customized Software" means COTS that is adapted by the contractor to meet specific requirements of the Agency that differ from the standard requirements of the base product.
7. The term "Deliverable" means the goods, products, Services and Work Product that the contractor is required to deliver to the State under the Contract;
8. The term "End User" means the user of the Contractor's solution.
9. The terms "goods" and "products" shall be deemed to include, without limitation, Software and Hardware.
10. The term "Hardware" shall be deemed to include computer equipment and any Software provided with the Hardware that is necessary for the Hardware to operate.
11. The term "Information Technology Contract" shall mean, notwithstanding any definition in New Jersey Statutes, a Contract for one or more of the following: Hardware, Software, Services, telecommunication goods and services, and all related goods.
12. The term "Mobile Device" means any device used by Contractor that can move or transmit data, including but not limited to laptops, hard drives, and flash drives.
13. The term "Non-Public Data" means data, other than Personal Data, that is not subject to distribution to the public as public information. Non-Public Data is data that is identified by the State as non-public information or otherwise deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.
14. The term "Personal Data" means:
 - a. "Personal Information" as defined in N.J.S.A. 56:8-161, means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number, (2) driver's license number or State identification card number or (3) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. Dissociated data that, if linked would constitute Personal Information is Personal Information if the means to link the dissociated were accessed in connection with access to the dissociated data. Personal Information shall not include publicly available information that is lawfully made available to the general public from federal, state or local government records, or widely distributed media.
 - b. data, either alone or in combination with other data, that includes information relating to an individual that identifies the person or entity by name, identifying number, mark or description that can be readily associated with a particular individual and which is not a public record, including but not limited to, Personally Identifiable Information (PII); government-issued identification numbers (e.g., Social Security, driver's license, passport); Protected Health Information (PHI) as that term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 and defined below; and Education Records, as that term is defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.
15. The term "Personally Identifiable Information" or "PII," as defined by the U.S. Department of Commerce, National Institute of Standards and Technology, means any information about an individual maintained by an agency, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information,
16. The term "Protected Health Information" or "PHI," has the same meaning as the term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 means Individually Identifiable Health Information (as defined below) transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer. The term "Individually Identifiable Health Information" has the same meaning as the term is defined in the regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, P.L. No. 104-191 (1996) and found in 45 CFR Parts 160 to 164 and means information that is a subset of Protected Health Information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health

- care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
17. The term "Recovery Time Objective" or "RTO," means the maximum tolerable length of time that the Contractor's solution may be unavailable after a failure or disaster occurs.
 18. The term "Security Incident" means the potential access by non-authorized person(s) to Personal Data or Non-Public Data that the Contractor believes could reasonably result in the use, disclosure, or access or theft of State's unencrypted Personal Data or Non-Public Data within the possession or control of the Contractor. A Security Incident may or may not turn into a Breach of Security.
 19. The term "Service Level Agreement" or "SLA," means the document that is part of the Contractor's SFA that typically includes (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) security responsibilities and notice requirements, (5) how disputes are discovered and addressed, and (6) any remedies for performance failures.
 20. The terms "Services" shall be deemed to include, without limitation (i) Information Technology ("IT") professional services; (ii) Software and Hardware-related services, including without limitation, installation, configuration, and training and (iii) Software and Hardware maintenance and support and/or Software and Hardware technical support services.
 21. The term "Software" means, without limitation, computer programs, source codes, routines, or subroutines supplied by the contractor, including operating software, programming aids, application programs, application programming interfaces and software products, and includes COTS, Customized Software and Custom Software, unless the context indicates otherwise.
 22. The term "State Data" means all data and metadata created or in any way originating with the State, and all data that is the output of computer processing of or other electronic manipulation of any data that was created by or in any way originated with the State, whether such data or output is stored on the State's hardware, the Contractor's hardware or exists in any system owned, maintained or otherwise controlled by the State or by the Contractor. State Data includes Personal Data and Non-Public Data.
 23. The term "State Intellectual Property" means any intellectual property that is owned by the State. State Intellectual Property includes any derivative works and compilations of any State Intellectual Property.
 24. The term "Third Party Intellectual Property" means any intellectual property owned by parties other than the State or the contractor and contained in or necessary for the use of the Deliverables. Third Party Intellectual Property includes COTS owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.
 25. The term "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, Software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by the contractor or the contractor's subcontractors or a third party engaged by the contractor or its subcontractor pursuant to the Contract. Notwithstanding anything to the contrary in the preceding sentence, Work Product does not include State Intellectual Property, Contractor Intellectual Property or Third Party Intellectual Property.

8.2 INDEMNIFICATION FOR STANDARD TECHNOLOGY CONTRACTS

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

4.1 INDEMNIFICATION

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

1. The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its officers, officials, agents, servants and employees, from and against any and all third-party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - a. For or on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under this Contract or the order; and
 - b. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of this Contract.
 2. In the event of a patent and copyright claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may:
 - a. procure for the State of New Jersey the legal right to continue the use of the product;
 - b. replace or modify the product to provide a non-infringing product that is the functional equivalent; or
 - c. in the event that the Contractor cannot do "a." or "b.", refund the purchase price less a reasonable allowance for use that is agreed to by both parties.
- B. The contractor's indemnification and liability under subsection "A." is not limited by but is in addition to the insurance obligations. The provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the contract or otherwise at law or equity. The Contractor agrees that any approval by the State of the work performed and/or reports, plans or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract.
- C. Contractor will be relieved of its responsibilities under Subsection "A." for any claims made by a third-party that arise solely from the actions or omissions of the State, its officers, employees or agents.
- D. The State will:
1. promptly notify Contractor in writing of the claim or suit;

2. give Contractor shall have control of the defense and settlement of any claim that is subject to Section "A.1"; provided; however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at its expense.
- E. Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Subsection A.1 which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims.
- F. The State of New Jersey will not indemnify, defend, pay or reimburse for claims on behalf of the Contractor. The State of New Jersey will not indemnify, defend or hold harmless the Contractor. The State will not pay or reimburse for claims absent compliance with Section "E." and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.
- G. Neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Authorized Purchaser, nor purport to act as legal representative of the State of New Jersey or any Authorized Purchaser, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of the Division of Purchase and Property. The State of New Jersey may, at its election and expense, assume its own defense and settlement.
- H. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from:
 1. the State's unauthorized combination, operation, or use of a product supplied under this Contract with any product, device, or Software not supplied by Contractor;
 2. the State's unauthorized alteration or modification of any product supplied under this Contract;
 3. the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one (1) or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or
 4. the State's failure to promptly implement a required update or modification to the product provided by Contractor after the Contractor has given written notice to the State of a need for such an update or modification.
- I. This section states the entire obligation of Contractor and its suppliers, and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.

8.3 LIMITATION OF LIABILITY FOR STANDARD TECHNOLOGY CONTRACTS

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

4.3 LIMITATION OF LIABILITY

The Contractor's liability to the State for actual and direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to this Contract, for any and all third-party claims, shall be limited in the aggregate to 200% of the total value of this Contract. Notwithstanding the preceding sentence, in no event shall the limit of liability be less than \$1,000,000. This limitation of liability shall not apply to the following:

- A. The Contractor's obligation to indemnify as described in Section 4.1;
- B. The Contractor's breach of its obligations of confidentiality; and
- C. The Contractor's liability with respect to copyright indemnification.

The Contractor's indemnification obligation is not limited by but is in addition to the insurance obligations. The Contractor shall not be liable for punitive, special, indirect, consequential, or incidental damages.

8.4 PERFORMANCE GUARANTEE OF THE CONTRACTOR

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

1. COTS and Customized Software
 - a. Unless the Contractor Standard Form Agreement provides greater coverage as determined by the State, in its sole discretion, the contractor warrants that COTS and Customized Software products licensed to the State shall operate in all material respects as described in the Solicitation and/or contractor technical documentation for ninety (90) days after Acceptance. The State shall notify the contractor of any COTS or Customized Software product deficiency within ninety (90) days after Acceptance. For a Contract requiring the delivery of COTS or Customized Software and Custom Software, a notice within one hundred eighty (180) days that describes a deficiency in functional terms without specifying whether the deficiency is with COTS, Customized Software or Custom Software shall be deemed a notice that triggers the warranty provisions in both Section 5.11(a) and 5.11(b) of this Supplement.
 - b. Except for the portion of the contractor's COTS or Customized Software product that intentionally contains one or more of the following for the purpose of anti-virus protection, the contractor warrants that, at the time of delivery and installation of the COTS or Customized Software provided pursuant to the Contract, its product shall be free of what are commonly defined as viruses, backdoors, worms, spyware, malware and other malicious code that will hamper performance of the COTS or Customized Software, collect unlawful personally identifiable information on users, or prevent the COTS or Customized Software from performing as required under the Contract.
 - c. In the event of any breach of this warranty, the contractor shall correct the product errors that caused the breach of warranty, or if the contractor cannot substantially correct such breach in a commercially reasonable manner, the State may end its usage and

recover the fees paid to the contractor for the license and any unused, prepaid, technical support fees paid. Under no circumstances does this warranty provision limit the contractor's obligation in the event of a breach of confidentiality.

- d. The contractor does not warrant that COTS or Customized Software is error-free or that it will operate uninterrupted.

2. Custom Software

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

3. IT Services

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that all Services will be provided in a professional manner consistent with industry standards. The State shall notify the contractor of any Services warranty deficiencies within ninety (90) days from performance of the deficient Services.
- b. In the event of any breach of this warranty, the contractor shall re-perform the deficient Services, or if the contractor cannot substantially correct a breach in a commercially reasonable manner, the State may end the relevant Services and recover the fees paid to the contractor for the deficient Services.

4. Hardware

- a. Unless the Contractor Standard Form Agreement provides greater coverage, as determined by the State, in its sole discretion, the contractor warrants that the equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
- b. The contractor warrants that all equipment supplied to the State and operated by electrical current is UL listed where applicable.
- c. The contractor warrants that all new machines are to be guaranteed as fully operational for one (1) year from time of Acceptance by the State. For the avoidance of doubt, Acceptance with respect to Hardware in this subsection (d) shall occur no later than sixty (60) days after delivery, as evidenced by a signed delivery receipt. The contractor shall render prompt service without charge, regardless of geographic location.
- d. The contractor warrants that sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters.
- e. The contractor warrants that trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice.
- f. The contractor warrants that all Software included with the Hardware shall perform substantially in accordance with specifications, for one (1) year from the time of Acceptance. The contractor warrants that Software media will be free from material defects in materials and workmanship for a period of one (1) year from the date of Acceptance.
- g. In the event of any breach of this warranty, the contractor shall promptly repair, replace or refund the purchase price of product rejected for failure to conform with the contractor's product specifications.

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

8.5 AUDIT NOTICE AND DISPUTE RESOLUTION

To the extent the contractor's proposal or Standard Form Agreement permits the contractor to conduct periodic audits of the State's usage of the

Contractor Intellectual Property provided thereunder, such provision is amended to include the following audit notice and dispute resolution process:

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

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

9.1 ADDITIONAL TERMS FOR A CONTRACTOR'S DATA PROTECTION OBLIGATIONS

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

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

2. **Data Protection:** Protection of personal privacy and data shall be an integral part of the business activities of the Contractor to ensure that there is no inappropriate or unauthorized use of State Data at any time. To this end, the Contractor shall safeguard the confidentiality, integrity, and availability of State Data and comply with the following conditions:
 - a. The Contractor shall implement and maintain appropriate administrative, technical and organizational security measures to safeguard against unauthorized access, disclosure or theft of Personal Data and Non-Public Data. Such security measures shall be in accordance with recognized good industry practice and not less stringent than the measures the Contractor applies to its own Personal Data and Non-Public Data of similar kind.
 - b. All Personal Data shall be encrypted at rest and in transit with controlled access. Contractor is responsible for encryption of the Personal Data. The level of protection and encryption for all Personal Data shall be identified and made a part of this contract.
 - c. Contractor shall encrypt all Non-Public Data at rest and in transit. The level of protection and encryption for all Non-Public Data shall be identified and made a part of this contract.
 - d. Personal Data shall not be stored on Mobile Devices. Where Mobile Devices are required for Contractor to accomplish the work, the Contractor shall ensure the Mobile Device is hard drive encrypted consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all Personal Data.
 - e. At no time shall any data or processes, which either belongs to or are intended for the use of State or its officers, agents, or employees, be copied, disclosed, or retained by the Contractor or any party related to the Contractor for subsequent use in any capacity that does not include the State.
3. **Data Location:** Contractor shall provide its services to State and its End Users solely from data centers in the U.S. Storage of State Data at rest shall be located solely in data centers in the U.S. Contractor shall not allow its personnel or contractors to store State Data on Mobile Devices, including personal computers, except for devices that are used and kept within the physical structure of its U.S. data centers. Contractor shall permit its personnel and contractors to access State Data remotely only as required to provide technical support or upon prior notice and approval. The Contractor may provide technical user support on a seven-day by 24-hour basis, unless otherwise prohibited in this contract.
4. **Security Incident and Breach of Security Responsibilities.**
 - a. **Security Incident Reporting Requirements:** Once Contractor reasonably determines that a Security Incident occurred, the Contractor shall report a Security Incident to the appropriate State identified contact within 24 hours by the agreed upon method

- as defined in the contract. Contractor will provide the State regular updates and all available relevant information including a description of the incident and those measures taken by Contractor in response to the Security Incident.
- b. Breach of Security Reporting Requirements: If the Contractor confirms or reasonably believes that there has been a Breach of Security, the Contractor shall (1) immediately notify the appropriate State identified contact by the agreed upon method within 24 hours, unless a shorter time is required by applicable law, (2) take commercially reasonable measures to address and investigate the Breach of Security in a timely manner and (3) cooperate with the State as reasonably requested by the State and/or law enforcement to investigate and resolve the Breach of Security. Contractor will provide the State regular updates and all available information to assist the State with notification to law enforcement and third parties as required by applicable law, including a description of the Breach of Security and those measures taken by Contractor in response to the Breach of Security.
 - c. Incident Response: When commercially reasonable to do so, Contractor may communicate with outside parties regarding a Security Incident, which may include contacting law enforcement, fielding media inquiries (subject to preapproval by the State if Contractor specifically identifies the State or State Data), and seeking external expertise as mutually agreed at the time, defined by law, or contained in the SLA. Discussing Security Incidents with the State should be handled on an urgent as needed basis, as part of Contractor communication and mitigation processes as mutually agreed at the time, defined by law, or contained in the SLA.
 - d. Following a Security Incident or Breach of Security, Contractor shall promptly implement necessary remedial measures, if necessary, and document responsive actions taken related to the Security Incident or Breach of Security, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
5. Termination and Suspension of Service:
- a. In the event of termination of the contract, the Contractor shall implement an orderly return of State Data in a mutually agreeable format and the subsequent secure disposal of State Data remaining in Contractor's possession.
 - b. Suspension of services: During any period of suspension, the Contractor shall not take any action to intentionally erase any State Data.
 - c. Unless otherwise stipulated, in the event of termination of any services, SLA, or this contract in its entirety, the Contractor shall not take any action to intentionally erase any State Data for a period of:
 - 1) 10 business days after the effective date of termination, if the termination is in accordance with the expiration of the defined contract term;
 - 2) 30 business days after the effective date of termination, if the termination is for convenience; or
 - 3) 60 business days after the effective date of termination, if the termination is for cause.After such period, the Contractor shall have no obligation to maintain or provide any State Data and shall thereafter, unless legally prohibited, delete all State Data in its systems or otherwise in its possession or under its control in accordance with subsection (e) below.
 - d. Post-Termination Assistance: The State shall be entitled to any post-termination assistance with respect to the services unless a unique data retrieval arrangement has been established as part of the contract.
 - e. Secure Data Disposal: When requested by the State, the Contractor shall destroy all requested data in all of its forms, including but not limited to: disk, CD/DVD, backup tape, and paper. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST) approved methods and certificates of destruction shall be provided to the State.
6. Background Checks: The Contractor shall conduct criminal background checks and not utilize any staff, including sub-contractors, to fulfill the obligations of the contract who has been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or any misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The Contractor shall promote and maintain an awareness of the importance of securing the State's Data among the Contractor's employees and agents.
7. Access to security logs and other reports: The Contractor shall provide logs and reports to the State in a format as specified in the contract and agreed to by both the Contractor and the State. Reports shall include latency statistics, user access, user access IP address, user access history and security logs for all State Data related to this contract, including but not limited to data, file management, transactions, or tools used to provide, manage, secure, or analyze the State's Data. The Contractor shall maintain the reports and logs for the contract term and for two (2) years after the conclusion of the term, and shall provide them to the State in the course of a State audit or upon written request from the State.
8. Service Level Audit: The Contractor shall allow the State to audit conformance to the contract terms. The State may perform this audit or contract with a third party at its discretion, at the State's expense.
9. Data Center Audit: The Contractor shall have an independent third party audit of its data center(s) performed at least annually at their own expense, and provide the audit report to the State upon request.
10. Change Control and Advance Notice: The Contractor shall give advance notice to the State of any upgrades (e.g. major upgrades, minor upgrades, system changes) that may impact service availability and performance. Said notice shall be provided at least thirty days in advance of the upgrade, unless otherwise agreed in the SLA.
11. Security: The Contractor shall disclose its non-proprietary security processes and technical limitations to the State by completing the State's Security Controls Checklist or equivalent system security document, available upon request from the Office of Information

Technology, as updated from time to time, such that adequate protection and flexibility can be attained between the State and the Contractor.

12. Non-disclosure and Separation of Duties: The Contractor shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of State Data to that which is absolutely needed to perform job duties.
13. Import and Export of Data: The State shall have the ability to import or export data in piecemeal or in entirety at its discretion without interference from the Contractor. This includes the ability for the State to import or export data to/from other Contractors.
14. Responsibilities and Uptime Guarantee: The Contractor shall be responsible for the acquisition and operation of all hardware, software, and network support related to the services being provided. The technical and professional activities required for establishing, managing, and maintaining the environment are the responsibilities of the Contractor. The system shall be available 24 hours per day, 365 days per year (with agreed-upon maintenance downtime), and Contractor shall provide service to the State as defined in the Service Level Agreement.
15. Right to Remove Individuals: The State shall have the right at any time to require that the Contractor remove from interaction with the State any Contractor representative who the State believes is detrimental to its working relationship with the Contractor. The State will provide the Contractor with notice of its determination, and the reasons it requests the removal. If the State signifies that a potential security violation exists with respect to the request, the Contractor shall immediately remove such individual. The Contractor shall not assign the person to any aspect of the contract or future work orders without the State's consent.

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

9.2 INDEMNIFICATION FOR SAAS

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

4.1 INDEMNIFICATION

- A. The Contractor's liability to the State and its employees in third-party suits shall be as follows:
 1. The Contractor shall assume all risk for and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its officers, officials, agents, servants and employees, from and against any and all third-party claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith:
 - i. For or on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the work and/or products supplied under this Contract or order; and
 - ii. For or on account of the use of any patent, copyright, trademark, trade secret or other proprietary right of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance ("Intellectual Property Rights") furnished or used in the performance of the contract; and
 - iii. For or on account of a Breach of Security resulting from Contractor's breach of its obligation to encrypt Personal Data or otherwise prevent its release or misuse.
 2. In the event of a claim or suit involving third-party Intellectual Property Rights, the Contractor, at its option, may:
 - a. procure for the State the legal right to continue the use of the product;
 - b. replace or modify the product to provide a non-infringing product that is the functional equivalent; or
 - c. in the event that the Contractor cannot do "a." or "b.", refund the purchase price less a reasonable allowance for use that is agreed to by both parties.
- B. The Contractor's indemnification and liability under subsection "A." is not limited by but is in addition to the insurance obligations. The provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the State from taking any other actions available to it under any other provisions of the contract or otherwise at law or equity. The Contractor agrees that any approval by the State of the work performed and/or reports, plans or specifications provided by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract.
- C. Contractor will be relieved of its responsibilities under Subsection "A." for any claims made by a third-party that arise solely from the actions or omissions of the State, its officers, employees or agents.
- D. The State will:
 1. promptly notify Contractor in writing of the claim or suit;
 2. give Contractor shall have control of the defense and settlement of any claim that is subject to Section "A.1"; provided; however, that the State must approve any settlement of the alleged claim, which approval shall not be unreasonably withheld. The State may observe the proceedings relating to the alleged claim and confer with the Contractor at its expense.
- E. Subject to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1 et seq.), the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.) and the appropriation and availability of funds, the State will be responsible for any cost or damage arising out of actions or inactions of the State, its employees or agents under Subsection A.1 which results in an unaffiliated third party claim. This is Contractor's exclusive remedy for these claims.
- F. The State of New Jersey will not indemnify, defend, pay or reimburse for claims on behalf of the Contractor. The State of New Jersey will not indemnify, defend or hold harmless the Contractor. The State will not pay or reimburse for claims absent compliance with Section "F." and a determination by the State to pay the claim or a final order of a court of competent jurisdiction.

- G. Neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of New Jersey or any Authorized Purchaser, nor purport to act as legal representative of the State of New Jersey or any Authorized Purchaser, without having provided notice to the Director of the Division of Law in the Department of Law and Public Safety and to the Director of the Division of Purchase and Property. The State of New Jersey may, at its election and expense, assume its own defense and settlement.
- H. Notwithstanding the foregoing, Contractor has no obligation or liability for any claim or suit concerning third-party Intellectual Property Rights arising from:
 - 1. the State's unauthorized combination, operation, or use of a product supplied under this Contract with any product, device, or Software not supplied by Contractor;
 - 2. the State's unauthorized alteration or modification of any product supplied under this Contract;
 - 3. the Contractor's compliance with the State's designs, specifications, requests, or instructions, provided that if the State provides Contractor with such designs, specifications, requests, or instructions, Contractor reviews same and advises that such designs, specifications, requests or instructions present potential issues of patent or copyright infringement and the State nonetheless directs the Contractor to proceed with one (1) or more designs, specifications, requests or instructions that present potential issues of patent or copyright infringement; or
 - 4. the State's failure to promptly implement a required update or modification to the product provided by Contractor after the Contractor has given written notice to the State of a need for such an update or modification.
- I. This section states the entire obligation of Contractor and its suppliers, and the exclusive remedy of the State, in respect of any infringement or alleged infringement of any Intellectual Property Rights. This indemnity obligation and remedy are given to the State solely for its benefit and in lieu of, and Contractor disclaims, all warranties, conditions and other terms of non-infringement or title with respect to any product.

9.3 INSURANCE FOR SAAS

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

E. Cyber Breach Insurance

The Contractor shall carry Cyber Breach Insurance in sufficient to protect the Contractor from any liability arising out of its performance pursuant to the requirements of this Contract. The insurance shall be in an amount of not less than \$2,000,000 in such policy forms as shall be approved by the State. The insurance shall at a minimum cover the following: Data loss, ransomware and similar breaches to computers, servers and software; Protection against third-party claims; cost of notifying affected parties; cost of providing credit monitoring to affected parties; forensics; cost of public relations consultants; regulatory compliance costs; costs to pursue indemnity rights; costs to Data Breach and Credit Monitoring Services analyze the insured's legal response obligations; costs of defending lawsuits; judgments and settlements; regulatory response costs; costs of responding to regulatory investigations; and costs of settling regulatory claims.

9.4 LIMITATION OF LIABILITY FOR SAAS

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

4.3 LIMITATION OF LIABILITY

- A. The Contractor's liability to the State for actual, direct damages resulting from the Contractor's performance or non-performance of, or in any manner related to the Contract, for any and all third party claims, shall be limited in the aggregate to 200% of the fees paid by the State during the previous twelve months to Contractor for the products or services giving rise to such damages. Notwithstanding the preceding sentence, in no event shall the limit of liability be less than \$1,000,000. This limitation of liability shall not apply to the following:
 - i. The Contractor's indemnification obligations as described in Section 4.1; and
 - ii. The Contractor's breach of its obligations of confidentiality.
- B. Notwithstanding the foregoing exclusions, where a Breach of Security is a direct result of Contractor's breach of its contractual obligation to encrypt Personal Data or otherwise prevent its release as reasonably determined by the State, the Contractor shall bear the costs associated with (1) the investigation and resolution of the Breach of Security; (2) notifications to individuals, regulators, or others required by federal and state laws or as otherwise agreed to; (3) a credit monitoring service required by state or federal law or as otherwise agreed to; (4) a website or a toll-free number and call center for affected individuals required by federal and state laws — all not to exceed the average per record, per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute for the public sector at the time of the Breach of Security; and (5) completing all corrective actions as reasonably determined by Contractor based on root cause of the Breach of Security.
- C. The Contractor shall not be liable for punitive, special, indirect, incidental, or consequential damages.

EXHIBIT A - GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)

N.J.A.C. 17:27 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT B - CONSTRUCTION CONTRACTS

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)

N.J.S.A. 10:5-39 et seq. (P.L.1983, c.197)

N.J.A.C. 17:27-1.1 et seq.

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

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

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

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

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

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

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

- (A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.
- (B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:
 - (1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;
 - (2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;
 - (3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

- (4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;
 - (5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;
 - (6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:
 - (i) The contractor or subcontractor shall interview the referred minority or women worker.
 - (ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.
 - (iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.
 - (iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.
 - (7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.
- (C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

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

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

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

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

EXHIBIT C - EXECUTIVE ORDER NO. 151 REQUIREMENTS

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

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

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

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

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

State of New Jersey Combined Standard Terms and Conditions

(Revised June 3, 2025)

I HEREBY ACKNOWLEDGE AND AGREE TO THE STATE OF NEW JERSEY COMBINED STANDARD TERMS AND CONDITIONS
MADE PART OF THE CONTRACT.

Signature

Date

Print Name and Title

Print Name of Contractor

ATTACHMENT A4



DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING THE VENDOR FORM

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

BID SOLICITATION # AND TITLE: _____

VENDOR NAME: _____

PART 1

PLEASE LIST ALL OFFICERS/DIRECTORS OF THE VENDOR BELOW.

NAME	_____
TITLE	_____
ADDRESS	_____
ADDRESS	_____
CITY	STATE ZIP

NAME	_____
TITLE	_____
ADDRESS	_____
ADDRESS	_____
CITY	STATE ZIP

NAME	_____
TITLE	_____
ADDRESS	_____
ADDRESS	_____
CITY	STATE ZIP

NAME	_____
TITLE	_____
ADDRESS	_____
ADDRESS	_____
CITY	STATE ZIP

**Attach Additional Sheets If Necessary.*

PART 2

PLEASE REFER TO THE PERSONS LISTED ABOVE AND/OR THE PERSONS AND/OR ENTITIES LISTED ON THE OWNERSHIP DISCLOSURE FORM WHEN ANSWERING THESE QUESTIONS.

1. Has any person or entity listed on this form or its attachments ever been arrested, charged, indicted, or convicted in a criminal or disorderly persons matter by the State of New Jersey (or political subdivision thereof), or by any other state or the U.S. Government?
2. Has any person or entity listed on this form or its attachments ever been suspended, debarred or otherwise declared ineligible by any government agency from bidding or contracting to provide services, labor, materials or supplies?
3. Are there currently any pending criminal matters or debarment proceedings in which the firm and/or its officers and/or managers are involved?
4. Has any person or entity listed on this form or its attachments been denied any license, permit or similar authorization required to engage in the work applied for herein, or has any such license, permit or similar authorization been revoked by any agency of federal, state or local government?
5. Has any person or entity listed on this form or its attachments been involved as an adverse party to a public sector client in any civil litigation or administrative proceeding in the past five (5) years?

IF ANY OF THE ANSWERS TO QUESTIONS 1-5 ARE "YES", PLEASE PROVIDE THE REQUESTED INFORMATION IN PART 3.
IF ALL OF THE ANSWERS TO QUESTIONS 1-5 ARE "NO", NO FURTHER ACTION IS NEEDED; PLEASE SIGN AND DATE THE FORM.

PART 3

DESCRIPTION OF THE INVESTIGATION OR LITIGATION, ETC.

If you answered "YES" to any of questions 1 - 5 above, you must provide a detailed description of any investigation or litigation, including, but not limited to, administrative complaints or other administrative proceedings involving public sector clients during the past five (5) years. The description must include the nature and status of the investigation, and for any litigation, the caption and a brief description of the action, the date of inception, current status, and if applicable, the disposition.

PERSON OR ENTITY NAME	_____
CONTACT NAME	PHONE NUMBER
CASE CAPTION	_____
INCEPTION OF THE INVESTIGATION	CURRENT STATUS
SUMMARY OF INVESTIGATION	_____
_____	_____
_____	_____

**Attach Additional Sheets If Necessary.*

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I may be subject to criminal prosecution under the law, and it will constitute a material breach of my contract(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

ATTACHMENT A5



SOURCE DISCLOSURE FORM

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

BID SOLICITATION # AND TITLE: _____

VENDOR NAME: _____

The Vendor/Bidder submits this Form in response to a Bid Solicitation issued by the State of New Jersey, Department of the Treasury, Division of Purchase and Property, in accordance with the requirements of N.J.S.A. 52:34-13.2.

PART 1

All services will be performed by the Contractor and Subcontractors in the United States. Skip Part 2.

Services will be performed by the Contractor and/or Subcontractors outside of the United States. **Complete Part 2.**

PART 2

Where services will be performed outside of the United States, please list every country where services will be performed by the Contractor and all Subcontractors. If any of the services cannot be performed within the United States, the Contractor shall state, with specificity, the reasons why the services cannot be performed in the United States. The Director of the Division of Purchase and Property will review this justification and if deemed sufficient, the Director may seek the Treasurer's approval.

Name of Contractor / Sub-contractor	Performance Location by Country	Description of Service(s) to be Performed Outside of the United States *	Reason Why the Service(s) Cannot be Performed in the United States *

***Attach additional sheets if necessary to describe which service(s), if any, will be performed outside of the U.S. and the reason(s) why the service(s) cannot be performed in the U.S.**

Any changes to the information set forth in this Form during the term of any Contract awarded under the referenced Bid Solicitation or extension thereof shall be immediately reported by the Contractor to the Director of the Division of Purchase and Property. If during the term of the Contract, the Contractor shifts the location of services outside the United States, without a prior written determination by the Director, the Contractor shall be deemed in breach of Contract, and the Contract will be subject to termination for cause pursuant to the State of New Jersey Standard Terms and Conditions.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I may be subject to criminal prosecution under the law, and it will constitute a material breach of my contract(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

ATTACHMENT A6



DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

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

BID SOLICITATION # AND TITLE: _____

VENDOR NAME: _____

Pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4) any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must certify that neither the person nor entity, nor any of its parents, subsidiaries, or affiliates, is identified on the New Jersey Department of the Treasury's Chapter 25 List as a person or entity engaged in investment activities in Iran. The Chapter 25 list is found on the Division's website at <https://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Vendors/Bidders must review this list prior to completing the below certification. If the Director of the Division of Purchase and Property finds a person or entity to be in violation of the law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

CHECK THE APPROPRIATE BOX

I certify, pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4), that neither the Vendor/Bidder listed above nor any of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury's Chapter 25 List of entities determined to be engaged in prohibited activities in Iran.

OR

I am unable to certify as above because the Vendor/Bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury's Chapter 25 List. I will provide a detailed, accurate and precise description of the activities of the Vendor/Bidder, or one of its parents, subsidiaries or affiliates, has engaged in regarding investment activities in Iran by completing the information requested below.

Entity Engaged in Investment Activities
Relationship to Vendor/ Bidder
Description of Activities

Duration of Engagement
Anticipated Cessation Date

**Attach Additional Sheets If Necessary.*

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I may be subject to criminal prosecution under the law, and it will constitute a material breach of my contract(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

ATTACHMENT A7

Certification of Non-Involvement in Prohibited Activities in Russia or Belarus

Any person or entity (hereinafter “Vendor”) that seeks to enter into or renew a contract with a State agency for the provision of goods or services, or the purchase of bonds or other obligations, must complete the certification below indicating whether or not the Vendor is identified on the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, available here: <https://sanctionssearch.ofac.treas.gov/>. If the Department of the Treasury finds that a Vendor has made a certification in violation of the law, it shall take any action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, certify that I have read the definition of “Vendor¹” below, and have reviewed the Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons list, and having done so certify:

(Check the Appropriate Box)

- A. That the Vendor is not identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus.

OR

- B. That I am unable to certify as to “A” above, because the Vendor is identified on the OFAC Specially Designated Nationals and Blocked Persons list on account of activity related to Russia and/or Belarus.

OR

- C. That I am unable to certify as to “A” above, because the Vendor is identified on the OFAC Specially Designated Nationals and Blocked Persons list. However, the Vendor is engaged in activity related to Russia and/or Belarus consistent with federal law, regulation, license or exemption. A detailed description of how the Vendor’s activity related to Russia and/or Belarus is consistent with federal law is set forth below.

(Attach Additional Sheets if Necessary.)

Signature of Vendor’s Authorized Representative

Date

Print Name and Title of Vendor’s Authorized Representative

Vendor’s FEIN

Vendor’s Name

Vendor’s Phone Number

Vendor’s Address (Street Address)

Vendor’s Fax Number

Vendor’s Address (City/State/Zip Code)

Vendor’s Email Address

¹ Vendor means: (1) A natural person, corporation, company, limited partnership, limited liability partnership, limited liability company, business association, sole proprietorship, joint venture, partnership, society, trust, or any other nongovernmental entity, organization, or group; (2) Any governmental entity or instrumentality of a government, including a multilateral development institution, as defined in Section 1701(c)(3) of the International Financial Institutions Act, 22 U.S.C. 262r(c)(3); or (3) Any parent, successor, subunit, direct or indirect subsidiary, or any entity under common ownership or control with, any entity described in paragraph (1) or (2).

ATTACHMENT A8



MACBRIDE PRINCIPLES FORM

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

BID SOLICITATION # AND TITLE: _____

VENDOR NAME: _____

Pursuant to Public Law 1995, c. 134, a responsible Vendor/Bidder is required to provide a certification in compliance with the MacBride Principles and Northern Ireland Act of 1989. Pursuant to N.J.S.A. 52:34-12.2, Vendor/Bidder must complete the certification below by checking one of the two options listed below and signing where indicated. If a Vendor/Bidder that would otherwise be awarded a purchase, contract or agreement does not complete the certification, then the Director may determine, in accordance with applicable law and rules, that it is in the best interest of the State to award the purchase, contract or agreement to another Vendor/Bidder that has completed the certification and has submitted a bid within five (5) percent of the most advantageous bid. If the Director finds contractors to be in violation of the principles that are the subject of this law, he/she shall take such action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

I, the undersigned, on behalf the Vendor/Bidder, certify pursuant to N.J.S.A. 52:34-12.2 that:

CHECK THE APPROPRIATE BOX

The Vendor/Bidder has no business operations in Northern Ireland; or

OR

The Vendor/Bidder will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in section 2 of P.L. 1987, c. 177 (N.J.S.A. 52:18A-89.5) and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of its compliance with those principles.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I may be subject to criminal prosecution under the law, and it will constitute a material breach of my contract(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

ATTACHMENT A9



CONFIDENTIALITY AND COMMITMENT TO DEFEND

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

BID SOLICITATION # & TITLE:

The Bid Solicitation advises Bidders (hereinafter "Company") that the submitted "Quotes can be released to the public pursuant to N.J.A.C. 17:12-1.2(b) and (c), or under the New Jersey Open Public Records Act (OPRA), N.J.S.A. 47:1A-1.1 et seq., or the common law right to know." In the event that the Division receives a request for documents related to above referenced Bid Solicitation, in accordance with its statutory obligations under the New Jersey Open Public Records Act and/or the common law right to know, it is the Division's intent to fulfill the request for records which may include a copy of the Company's Quote.

If Company objects to the disclosure of any portions of the Quote, the Company must advise the Division and must attach a detailed statement clearly identifying those sections of the Quote that Company claims are exempt from disclosure. In requesting any exemption, Company must identify the specific statutory or other legal justification for each requested exemption and the factual basis that supports said exemption. In addition, if Company requests any exemption to disclosure of the Quote based upon claims of confidential/proprietary information and trade secrets (setting forth the nature of the formula, process, pattern, device or compilation), in accordance with *Ingersoll-Rand Co. v. Ciavatta*, 110 N.J. 609 (1988), Company must also indicate the following with respect to the requested exemption:

- (1) the extent to which the information is known outside the owner's business;
- (2) the extent to which it is known by employees and others involved with your business;
- (3) the extent of the measures taken by your firm to guard the secrecy of the information;
- (4) the value of the information to your firm and your competitors;
- (5) the amount of effort or money expended by your firm in developing the information; and
- (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

Further, if the Quote includes any copyright notices, within five business days, the Division will be permitted to release a copy of the Quote document(s) unless Company serves the Division with an order from a court of competent jurisdiction precluding such release.

The State reserves the right to make the final determination as to what is and is not subject to public disclosure under OPRA and/or the common law right to know, and will advise the Company accordingly. Please note that the State will not honor any claim of confidential, proprietary, trade secret, and/or copyright material that is not supported by a specific statutory or legal justification provided by the Company. The State will not honor any attempts by the Company to designate the entire Quote as proprietary, confidential and/or to claim copyright protection for its entire Quote.

Accordingly, in order to assist the Division with the fulfillment of potential document requests, please select **one** of the following:

The Company's Quote **does not include** any confidential, proprietary and/or trade secrets; and therefore, the Company does not request any redactions be made prior to the release of the documents.

OR

The Company's Quote **does include** confidential, proprietary and/or trade secrets; and therefore, the Company requests that certain portions of the Quote be redacted prior to the release of the documents.

The requested redactions are set forth in the attached statement which specifically identifies the portions of the Quote by section, page number, paragraph and or line; and identifies the specific statutory or other legal reason for each requested exemption.

In the event of any challenge to the Company's assertion of confidential/proprietary information, the Company shall be solely responsible for defending its designation. Company agrees that it shall defend and cooperate in the defense of an action against the State of New Jersey arising from or related to the non-disclosure, due to the Company's request, of documents submitted to the State of New Jersey, and relating to a Quote submitted by the Company in response to the above referenced Bid Solicitation, which was the subject of a request for government records under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq. ("OPRA"), or the common law right to know. The Company further agrees to indemnify and hold harmless the State against any judgments, costs, or attorneys' fees assessed against the State in connection with any action arising from, or related to, the non-disclosure, due to the Company's request, of documents submitted to the State, which are the subject of a request for government records under OPRA.

The Company makes the forgoing agreement with the understanding that the State may immediately disclose any documents withheld without further notice if the Company ceases to cooperate in the defense of an action against the State arising from or related to the above described non-disclosure due to the Company's request, and will disclose such documents withheld if so ordered by a court of competent jurisdiction.

The undersigned certifies that s/he is duly authorized to make this commitment on behalf of the Company.

Company Name

Signature

Date

Print Name and Title

ATTACHMENT A10



**STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY**

**33 WEST STATE STREET, P.O. BOX 0230
TRENTON, NEW JERSEY 08625-0230**

**VENDOR/BIDDER CERTIFICATION AND POLITICAL CONTRIBUTION DISCLOSURE FORM
PUBLIC LAW 2005, CHAPTER 271**

CONTRACT #: _____ **VENDOR/BIDDER:** _____

At least ten (10) days prior to entering into the above-referenced Contract, the Vendor/Bidder must complete this Certification and Political Contribution Disclosure Form in accordance with the directions below and submit it to the State contact for the referenced Contract.

NOTE that the disclosure requirements under Public Law 2005, Chapter 271, as amended by the Elections Transparency Act, P.L.2023, c.30, are separate and different from the disclosure requirements under Public Law 2005, Chapter 51. Although no Vendor/Bidder will be precluded from entering into a contract by any information submitted on this form, a Vendor's/Bidder's failure to fully, accurately and truthfully complete this form and submit it to the appropriate State agency may result in the imposition of fines by the New Jersey Election Law Enforcement Commission.

DISCLOSURE

The following is the required Vendor/Bidder Disclosure of all Reportable Contributions made within twelve (12) months prior to entering a county and local contract that is not fair and open or made within eighteen (18) months prior to entering a State contract that is not fair and open and including the date of signing of this Certification and Disclosure to: (i) any candidate committee of a candidate for, or holder of, a State elective office, or (ii) any entity that is also defined as a "continuing political committee" under N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7.

The Vendor/Bidder is required to disclose Reportable Contributions by: the Vendor/Bidder itself; all persons or other business entities owning or controlling more than 10% of the profits of the Vendor/Bidder or more than 10% of the stock of the Vendor/Bidder, if the Vendor/Bidder is a corporation for profit; a spouse or child living with a natural person that is a Vendor/Bidder; all of the principals, partners, officers or directors of the Vendor/Contractor and all of their spouses; any subsidiaries directly or indirectly controlled by the Vendor/Bidder; and any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the Vendor/Bidder, other than a candidate committee, election fund, or political party committee.

"Reportable Contributions" are those contributions that are required to be reported by the recipient under the "New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83, as amended by the Elections Transparency Act, P.L.2023, c.30, (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-10.1 et seq. As of January 1, 2023, contributions in excess of \$200 during a reporting period are deemed "reportable."

Name and Address of Committee to which a Reportable Contribution was made	Date of Reportable Contribution	Amount of Reportable Contribution	Contributor's Name
<i>Indicate "NONE" if no Reportable Contribution was made.</i>			
		\$	
		\$	
		\$	
		\$	
<i>Attach additional sheets if necessary</i>			

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor/Bidder, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the State of New Jersey is relying on the information contained herein, and that the Vendor/Bidder is under a continuing obligation from the date of this certification through the completion of any contract(s) with the State to notify the State in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of **my** agreement(s) with the State, permitting the State to declare any contract(s) resulting from this certification void and unenforceable.

Signature

Date

Print Name and Title

ATTACHMENT B
RFP FOR AUDIT OF THE
POLICE AND FIREMEN’S RETIREMENT SYSTEM OF NEW JERSEY

TECHNICAL REQUIREMENTS AND QUESTIONS

B.1 CONTRACT MANAGEMENT

The Bidder should describe its specific plans to manage, control and supervise the Contract to ensure satisfactory Contract completion according to the required schedule. The plan should include the Bidder’s approach to communicate with the Deputy Director of Financial Operations including, but not limited to, status meetings, status reports, etc.

B.2 CONTRACT SCHEDULE

The Bidder shall include a draft Contract schedule. The Bidder’s schedule should incorporate key dates and should identify the completion date for each task and sub-task required by the Scope of Work. Such schedule should also identify the associated deliverable item(s) to be submitted as evidence of completion of each task and/or subtask.

The Bidder should identify the Contract scheduling and control methodology to be used and should provide the rationale for choosing such methodology.

B.3 ORGANIZATIONAL EXPERIENCE

The Bidder should include information relating to its organization, personnel, and experience, including, but not limited to, references, together with contact names and telephone numbers, evidencing the Bidder’s qualifications, and capabilities to perform the services required by this RFP. The Bidder should include the level of detail it determines necessary to assist the Evaluation Committee in its review of Bidder’s proposal.

B.4 LOCATION

The Bidder should include the address of where responsibility for managing the Contract will take place. The Bidder should include the telephone number and name of the individual to contact. All PFRSNJ data shall be stored in a facility based in the United States of America. The Contractor shall not store or transfer PFRSNJ data outside of the United States. The Bidder should provide the location of all data storage.

B.5 ORGANIZATION CHARTS

The Bidder should include an organization chart, with names showing management, supervisory, and other key personnel (including Subcontractor management, supervisory, or other key personnel) to be assigned to the Contract. The chart should include the labor category and title of each such individual.

B.6 RESUMES

Detailed resumes should be submitted for all management, supervisory, and key personnel to be assigned to the Contract. Resumes should emphasize relevant qualifications and experience of these individuals in successfully completing Contracts of a similar size and scope to those required by this RFP. Resumes should include the following:

- A. The individual's previous experience in completing each similar Contract;
- B. Beginning and ending dates for each similar Contract;
- C. A description of the Contract demonstrating how the individual's work on the completed Contract relates to the individual's ability to contribute to successfully providing the services required by this RFP; and

- D. With respect to each similar Contract, the name and address of each reference together with a person to contact for a reference check and a telephone number.

The Bidder should provide detailed resumes for each Subcontractor's management, supervisory, and other key personnel that demonstrate knowledge, ability, and experience relevant to that part of the work which the Subcontractor is designated to perform.

B.7 EXPERIENCE WITH CONTRACTS OF SIMILAR SIZE AND SCOPE

The Bidder should provide a comprehensive listing of contracts of similar size and scope that it has successfully completed, as evidence of the Bidder's ability to successfully complete services similar to those required by this RFP. Emphasis should be placed on contracts that are similar in size and scope to the work required by this RFP. A description of all such contracts should be included and should show how such contracts relate to the ability of the firm to complete the services required by this RFP. For each such contract listed, the Bidder should provide two (2) names and telephone numbers of individuals for contracting party. Beginning and ending dates should also be given for each contract.

The Bidder must provide details of any negative actions taken by other contracting entities against them in the course of performing these projects including, but not limited to, receipt of letters of potential default, default, cure notices, termination of services for cause, or other similar notifications/processes. Additionally, the Bidder should provide details, including any negative audits, reports, or findings by any governmental agency for which the Bidder is/was the contractor on any contracts of similar scope. In the event a Bidder neglects to include this information in its proposal, the Bidder's omission of this necessary disclosure information may be cause for rejection of the Bidder's proposal by the PFRSNJ.

The Bidder should provide documented experience to demonstrate that each Subcontractor has successfully performed work on contracts of a similar size and scope to the work that the Subcontractor is designated to perform in the Bidder's proposal. The Bidder must provide a detailed description of services to be provided by each Subcontractor.

B.8 FINANCIAL CAPABILITY OF THE BIDDER

The Bidder should provide sufficient financial information to enable the PFRSNJ to assess the financial strength and creditworthiness of the Bidder and its ability to undertake and successfully complete the Contract. In order to provide the PFRSNJ with the ability to evaluate the Bidder's financial capacity and capability to undertake and successfully complete the Contract, the Bidder should submit the following:

- A. For publicly traded companies the Bidder should provide copies or the electronic location of the annual reports filed for the two (2) most recent years; or
- B. For privately held companies the Bidder should provide the certified financial statement (audited or reviewed) in accordance with applicable standards by an independent Certified Public Accountant, including a balance sheet, income statement, and statement of cash flow, and all applicable notes for the most recent calendar year or the Bidder's most recent fiscal year.

If the information is not supplied with the proposal, the PFRSNJ may still require the Bidder to submit it. If the Bidder fails to comply with the request within seven (7) Business Days, the PFRSNJ may deem the proposal non-responsive.

A Bidder may designate specific financial information as not subject to disclosure when the Bidder has a good faith legal/factual basis for such assertion. The PFRSNJ reserves the right to make the determination to accept the assertion and will so advise the Bidder.

ATTACHMENT C
RFP FOR AUDIT OF THE
POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY

The Bidder must submit its pricing with the bid proposal in response to this RFP. Each Bidder is required to hold its pricing firm through the issuance of the Contract.

Any price changes including hand written revisions or "white-outs" must be initialed. Failure to initial price changes shall preclude a Contract award from being made to the Bidder pursuant to N.J.A.C. 17:12-2.2(a)(8).

The Bidders must submit, as part of the proposal, firm fixed annual prices for the audits, reports, letters and testing identified in Section 2.1 of the RFP. The Bidder must include an all-inclusive hourly rate price for all six (6) Professional Skills Classifications for each year of the term of the Contract. The Bidder must also provide six (6) Litigation Support price lines have been added to the Professional Skills Classification list and must also be completed by the Bidder.

ATTACHMENT D
RFP FOR AUDIT OF THE
POLICE AND FIREMEN’S RETIREMENT SYSTEM OF NEW JERSEY

DESCRIPTION OF FUNDS, SYSTEMS, AND ACCOUNTING OVERVIEW

Actuaries:

Segal, 333 West 34th Street, New York, NY 10001-2402

Loans

Police and Firemen’s Retirement System provides for the member loans and mortgages.

Plan Background

The Police and Firemen’s Retirement System was created in July 1944 under Chapter 255, P.L. 1944. Membership includes all policemen and firemen appointed after June 1944 in municipalities where local police and pension funds exist or where this system was adopted by referendum or resolution (mandatory membership of these individuals). Certain state and county employees are also covered. The system is a contributory defined benefit plan that is maintained on an actuarial reserve basis. The most recent actuarial valuation of the plan was prepared on July 1, 2023.

Active Members	41,451
Annual Compensation	\$ 4,238,340,848
Beneficiaries	50,175
Retirement Allowances	\$ 3,078,489,125
Net Assets (market)	\$ 32,477,139,508
Actuarial Value of Assets	\$ 33,981,626,099

Accounting Overview of PFRSNJ

Effective April 1, 2024, the public investments of the Police & Firemen’s Retirement System of New Jersey were transferred over to the management of the PFRSNJ Board. The investments of the pension are held in separately managed accounts at the custodian bank; State Street Bank who is responsible for the safekeeping of assets along with the daily valuation of assets. The PFRSNJ has procured seven external investment firms to advise the investments in these portfolios staying within the boundaries of the asset allocation set forth by the Board. Current Assets of the pension include: equities; fixed income bonds; cash and derivative (futures) securities across both domestic and foreign markets. Foreign exchange contracts are utilized for both transacting in foreign markets in addition to hedging purposes. Excess overnight cash is held in a short-term vehicle at State Street. The investment portfolios are enrolled in the securities lending program at State Street Bank. This program is tailored specifically towards meeting the criteria of the pension plan for maximizing income with minimal risk. As of June 30, 2024 assets were valued at approximately \$32.6 billion.

Aside from the separately managed accounts, there are additional components to the PFRSNJ retirement system. First, is the mortgage program designed to benefit the members of the retirement system that is currently administrated by HMFA. Second, specific cash is held within the State CMF account referenced above. Last item to note, the majority of alternative investments for PFRSNJ are currently being managed and administered by the Division of Investments through Common Fund E. The PFRSNJ has begun investing in alternative investments independent of the Division of Investments.

Securities Lending

The PFRSNJ participates in a securities lending program administered by State Street, whereby securities are loaned to brokers or other borrowers and, in return, the Funds have rights to the collateral received. All of the publicly traded securities held by the PFRSNJ are eligible for the securities lending program. Collateral received may consist of cash or certain government securities having a market value equal to or exceeding 102% (U.S. security loans) or 105% (non-U.S. security loans) of the value of the loaned securities at the time the loan is made. The securities loans can be terminated by notification by either the borrower or the PFRSNJ. The average term to maturity of the securities loans is generally matched with the term to maturity of the investment of the cash collateral.

Charles River Development

Charles River Development (CRD) is a tool used for pre-trade approval of potential trades against rules, regulations, and guidelines. CRD is also for post-trade compliance of the portfolios against rules, regulations and guidelines.

ATTACHMENT E
RFP FOR AUDIT OF THE
POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY

ST-4 (05-12, R-15)

State of New Jersey
DIVISION OF TAXATION

SALES TAX

FORM ST-4

ELIGIBLE NONREGISTERED
PURCHASER: SEE INSTRUCTIONS **PURCHASER'S NEW JERSEY
TAXPAYER REGISTRATION NUMBER*

216000928

EXEMPT USE CERTIFICATE

To be completed by purchaser and given to and retained by seller.
Please read and comply with the instructions given on both sides of this certificate.

TO _____ Date _____
(Name of Seller)

Address

City

State

Zip

The undersigned certifies that there is no requirement to pay the New Jersey Sales and/or Use Tax on the purchase or purchases covered by this Certificate because the tangible personal property or services purchased will be used for an exempt purpose under the Sales & Use Tax Act.

The tangible personal property or services will be used for the following exempt purpose*:
State Government

The exemption on the sale of the tangible personal property or services to be used for the above described exempt purpose is provided in subsection N.J.S.A. 54:32B- 9(a) (See reverse side for listing for principal exempt uses of tangible personal property or services and fill in the block with proper subsection citation).

I, the undersigned purchaser, have read and complied with the instructions and rules promulgated pursuant to the New Jersey Sales and Use Tax Act with respect to the use of the Exempt Use Certificate, and it is my belief that the seller named herein is not required to collect the sales or use tax on the transaction or transactions covered by this Certificate. The undersigned purchaser hereby swears under the penalties for perjury and false swearing that all of the information shown in this Certificate is true.

State of NJ - Treasury Fiscal & Resources

NAME OF PURCHASER*

(as registered with the New Jersey Division of Taxation)

50 West State Street, PO Box 211, Trenton NJ 08625

(Address of Purchaser)*

Governmental Entity

TYPE OF BUSINESS*

By

(Signature of owner, partner, officer of corporation, etc.)*

Deputy Director
(Title)

*Required

MAY BE REPRODUCED
(Front & Back Required)

ATTACHMENT F
RFP FOR AUDIT OF THE
POLICE AND FIREMEN'S RETIREMENT SYSTEM OF NEW JERSEY

Data Security Requirements

F.1 Security Plan

The Contractor shall submit a detailed Security Plan that addresses the Contractor's approach to meeting each applicable security requirement outlined below, to the PFRSNJ, no later than thirty (30) Calendar Days after the award of the Contract. The PFRSNJ approval of the Security Plan shall be set forth in writing. In the event that the PFRSNJ reasonably rejects the Security Plan after providing the Contractor an opportunity to cure, the PFRSNJ may terminate the Contract pursuant to the Standard Terms and Conditions.

F.2 Information Security Program Management

The Contractor shall establish and maintain a framework to provide assurance that information security strategies are aligned with and support the PFRSNJ's business objectives, are consistent with applicable laws and regulations through adherence to policies and internal controls, and provide assignment of responsibility, in an effort to manage risk. Information security program management shall include, at a minimum, the following:

- A. Establishment of a management structure with clear reporting paths and explicit responsibility for information security;
- B. Creation, maintenance, and communication of information security policies, standards, procedures, and guidelines to include the control areas listed in sections below;
- C. Development and maintenance of relationships with external organizations to stay abreast of current and emerging security issues and for assistance, when applicable; and
- D. Independent review of the effectiveness of the Contractor's information security program.

F.3 Compliance

The Contractor shall develop and implement processes to ensure its compliance with all statutory, regulatory, contractual, and internal policy obligations applicable to this Contract. Examples include but are not limited to General Data Protection Regulation (GDPR), Payment Card Industry Data Security Standard (PCI DSS), Health Insurance Portability and Accountability Act of 1996 (HIPAA), IRS-1075. Contractor shall timely update its processes as applicable standards evolve.

- A. Within ten (10) Calendar Days after award, the Contractor shall provide the PFRSNJ with contact information for the individual or individuals responsible for maintaining a control framework that captures statutory, regulatory, contractual, and policy requirements relevant to the organization's programs of work and information systems;
- B. Throughout the solution development process, Contractor shall implement processes to ensure security assessments of information systems are conducted for all significant development and/or acquisitions, prior to information systems being placed into production; and
- C. The Contractor shall also conduct periodic reviews of its information systems on a defined frequency for compliance with statutory, regulatory, and contractual requirements. The Contractor shall document the results of any such reviews.

F.4 Personnel Security

The Contractor shall implement processes to ensure all personnel having access to relevant PFRSNJ and State of New Jersey information have the appropriate background, skills, and training to perform their job responsibilities in a competent, professional, and secure manner. Workforce security controls shall include, at a minimum:

- A. Position descriptions that include appropriate language regarding each role's security requirements;
- B. To the extent permitted by law, employment screening checks are conducted and successfully passed for all personnel prior to beginning work or being granted access to information assets;
- C. Rules of behavior are established and procedures are implemented to ensure personnel are aware of and understand usage policies applicable to information and information systems;
- D. Access reviews are conducted upon personnel transfers and promotions to ensure access levels are appropriate;
- E. Contractor disables system access for terminated personnel and collects all organization owned assets prior to the individual's departure; and
- F. Procedures are implemented that ensure all personnel are aware of their duty to protect information assets and their responsibility to immediately report any suspected information security incidents.

F.5 Security Awareness and Training

The Contractor shall provide periodic and on-going information security awareness and training to ensure personnel are aware of information security risks and threats, understand their responsibilities, and are aware of the statutory, regulatory, contractual, and policy requirements that are intended to protect information systems and PFRSNJ and/or state confidential information from a loss of confidentiality, integrity, availability and privacy. Security awareness and training shall include, at a minimum:

- A. Personnel are provided with security awareness training upon hire and at least annually, thereafter;
- B. Security awareness training records are maintained as part of the personnel record;
- C. Role-based security training is provided to personnel with respect to their duties or responsibilities (e.g. network and systems administrators require specific security training in accordance with their job functions); and
- D. Individuals are provided with timely information regarding emerging threats, best practices, and new policies, laws, and regulations related to information security.

F.6 Risk Management

The Contractor shall establish requirements for the identification, assessment, and treatment of information security risks to operations, information, and/or information systems. Risk management

requirements shall include, at a minimum:

- A. An approach that categorizes systems and information based on their criticality and sensitivity;
- B. An approach that ensures risks are identified, documented and assigned to appropriate personnel for assessment and treatment;
- C. Risk assessments shall be conducted throughout the lifecycles of information systems to identify, quantify, and prioritize risks against operational and control objectives and to design, implement, and exercise controls that provide reasonable assurance that security objectives will be met; and
- D. A plan under which risks are mitigated to an acceptable level and remediation actions are prioritized based on risk criteria and timelines for remediation are established. Risk treatment may also include the acceptance or transfer of risk.

F.7 Privacy

If there is PFRSNJ and/or State of New Jersey Data associated with the Contract, this section is applicable.

- A. Data Ownership. The State owns State Data. The PFRSNJ owns PFRSNJ data. Contractor shall not obtain any right, title, or interest in any State Data, PFRSNJ data, or information derived from or based on State Data or PFRSNJ data.
- B. Data usage, storage, and protection of Personal Data are subject to all applicable international, federal and state statutory and regulatory requirements, as amended from time to time, including, without limitation, those for HIPAA, Tax Information Security Guidelines for Federal, State, and Local Agencies (IRS Publication 1075), New Jersey State tax confidentiality statute, the New Jersey Privacy Notice found at NJ.gov, N.J.S.A. § 54:50-8, New Jersey Identity Theft Prevention Act, N.J.S.A. § 56:11-44 et. seq., the federal Drivers' Privacy Protection Act of 1994, Pub.L.103-322, and the confidentiality requirements of N.J.S.A. § 39:2-3.4. Contractor shall also conform to PCI DSS, where applicable.
- C. Security: Contractor agrees to take appropriate administrative, technical and physical safeguards reasonably designed to protect the security, privacy, confidentiality, and integrity of user information. Contractor shall ensure that PFRSNJ and/or State Data is secured and encrypted during transmission or at rest.
- D. Data Transmission: The Contractor shall only transmit or exchange PFRSNJ and/or State Data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the Contract or the State of New Jersey. The Contractor shall only transmit or exchange PFRSNJ and/or State Data with the State of New Jersey, the PFRSNJ, or other parties through secure means supported by current technologies.
- E. Data Storage: All data provided by the PFRSNJ and/or the State of New Jersey, or PFRSNJ or State data obtained by the Contractor in the performance of the Contract must be stored, processed, and maintained solely in accordance with a project plan and system topology approved by the Contract Manager. No PFRSNJ or State data shall be

processed on or transferred to any device or storage medium including portable media, smart devices and/or USB devices, unless that device or storage medium has been approved in advance in writing by the Contract Manager. The Contractor must not store or transfer State of New Jersey data outside of the United States.

- F. Data Re-Use: All PFRSNJ and/or State Data shall be used expressly and solely for the purposes enumerated in the Contract. PFRSNJ and/or State Data shall not be distributed, repurposed or shared across other applications, environments, or business units of the Contractor. No PFRSNJ and/or State Data shall be transmitted, exchanged or otherwise passed to other contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by the Contract Manager.
- G. Data Breach: In the event of any actual, probable or reasonably suspected Breach of Security, or any unauthorized access to or acquisition, use, loss, destruction, compromise, alteration or disclosure of any Personal Data, Contractor shall: (a) immediately notify the PFRSNJ of such Breach of Security, but in no event later than 24 hours after learning of such security breach; (b) designate a single individual employed by Contractor who shall be available to the State 24 hours per day, seven (7) days per week as a contact regarding Contractor's obligations under *Section F.34 - Incident Response*; (c) not provide any other notification or provide any disclosure to the public regarding such Breach of Security without the prior written consent of the PFRSNJ, unless required to provide such notification or to make such disclosure pursuant to any applicable law, regulation, rule, order, court order, judgment, decree, ordinance, mandate or other request or requirement now or hereafter in effect, of any applicable governmental authority or law enforcement agency in any jurisdiction worldwide (in which case Contractor shall consult with the PFRSNJ and reasonably cooperate with the PFRSNJ to prevent any notification or disclosure concerning any Personal Data or Breach of Security); (d) assist the PFRSNJ in investigating, remedying and taking any other action the PFRSNJ deems necessary regarding any Breach of Security breach and any dispute, inquiry, or claim that concerns the Breach of Security; (e) follow all instructions provided by the PFRSNJ relating to the Personal Data affected or potentially affected by the Breach of Security; (f) take such actions as necessary to prevent future Breaches of Security; and (g) unless prohibited by an applicable statute or court order, notify the PFRSNJ of any third party legal process relating to any Breach of Security including, at a minimum, any legal process initiated by any governmental entity (foreign or domestic).
- H. Minimum Necessary. Contractor shall ensure that PFRSNJ and/or State Data requested represents the minimum necessary information for the services as described in this RFP and, unless otherwise agreed to in writing by the PFRSNJ, that only necessary individuals or entities who are familiar with and bound by the Contract will have access to the PFRSNJ and/or State Data in order to perform the work.
- I. End of Contract Data Handling: Upon termination/expiration of this Contract the Contractor shall first return all PFRSNJ and/or State Data to the PFRSNJ in a usable format as defined in the Contract, or in an open standards machine-readable format if not. The Contractor shall then erase, destroy, and render unreadable all Contractor backup copies of PFRSNJ and/or State Data according to the standards enumerated in accordance with the State of New Jersey's most recent Media Protection policy, https://www.nj.gov/it/docs/ps/NJ_Statewide_Information_Security_Manual.pdf, and certify in writing that these actions have been completed within thirty (30) Calendar

Days after the termination/expiration of the Contract or within seven (7) Business Days of the request of the PFRSNJ whichever should come first.

- J. In the event of loss of any PFRSNJ and/or State Data or records where such loss is due to the intentional act, omission, or negligence of the Contractor or any of its Subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all PFRSNJ and/or State Data is backed up and is recoverable by the Contractor. In accordance with prevailing federal or state law or regulations, the Contractor shall report the loss of PFRSNJ and/or State data.

F.8 Asset Management

The Contractor shall implement administrative, technical, and physical controls necessary to safeguard information technology assets from threats to their confidentiality, integrity, or availability, whether internal or external, deliberate or accidental. Asset management controls shall include at a minimum:

- A. Information technology asset identification and inventory;
- B. Assigning custodianship of assets; and
- C. Restricting the use of non-authorized devices.

F.9 Security Categorization

The Contractor shall implement processes that classify information and categorize information systems throughout their lifecycles according to their sensitivity and criticality, along with the risks and impact in the event that there is a loss of confidentiality, integrity, availability, or breach of privacy. Information classification and system categorization includes labeling and handling requirements. Security categorization controls shall include the following, at a minimum:

- A. Implementing a data protection policy;
- B. Classifying data and information systems in accordance with their sensitivity and criticality;
- C. Masking sensitive data that is displayed or printed; and
- D. Implementing handling and labeling procedures.

F.10 Media Protection

The Contractor shall establish controls to ensure data and information, in all forms and mediums, are protected throughout their lifecycles based on their sensitivity, value, and criticality, and the impact that a loss of confidentiality, integrity, availability, and privacy would have on the Contractor, business partners, or individuals. Media protections shall include, at a minimum:

- A. Media storage/access/transportation;
- B. Maintenance of sensitive data inventories;
- C. Application of cryptographic protections;

- D. Restricting the use of portable storage devices;
- E. Establishing records retention requirements in accordance with business objectives and statutory and regulatory obligations; and
- F. Media disposal/sanitization.

F.11 Cryptographic Protections

The Contractor shall employ cryptographic safeguards to protect sensitive information in transmission, in use, and at rest, from a loss of confidentiality, unauthorized access, or disclosure. Cryptographic protections shall include at a minimum:

- A. Using industry standard encryption algorithms;
- B. Establishing requirements for encryption of data in transit;
- C. Establishing requirements for encryption of data at rest; and
- D. Implementing cryptographic key management processes and controls.

F.12 Access Management

The Contractor shall establish security requirements and ensure appropriate mechanisms are provided for the control, administration, and tracking of access to, and the use of, the Contractor's information systems that contain or could be used to access PFRSNJ and/or State data. Access management plan shall include the following features:

- A. Ensure the principle of least privilege is applied for specific duties and information systems (including specific functions, ports, protocols, and services), so processes operate at privilege levels no higher than necessary to accomplish required organizational missions and/or functions;
- B. Implement account management processes for registration, updates, changes and de-provisioning of system access;
- C. Apply the principles of least privilege when provisioning access to organizational assets;
- D. Provision access according to an individual's role and business requirements for such access;
- E. Implement the concept of segregation of duties by disseminating tasks and associated privileges for specific sensitive duties among multiple people; and
- F. Conduct periodic reviews of access authorizations and controls.

F.13 Identity and Authentication

The Contractor shall establish procedures and implement identification, authorization, and authentication controls to ensure only authorized individuals, systems, and processes can access the PFRSNJ's information and Contractor's information and information systems. Identity and authentication provides a level of assurance that individuals who log into a system are who they say they are. Identity and authentication controls shall include, at a minimum:

- A. Establishing and managing unique identifiers (e.g. User-IDs) and secure authenticators (e.g. passwords, biometrics, personal identification numbers, etc.) to support nonrepudiation of activities by users or processes; and
- B. Implementing multi-factor authentication (MFA) requirements for access to sensitive and critical systems, and for remote access to the Contractor's systems.

F.14 Remote Access

The Contractor shall strictly control remote access to the Contractor's internal networks, systems, applications, and services. Appropriate authorizations and technical security controls shall be implemented prior to remote access being established. Remote access controls shall include at a minimum:

- A. Establishing centralized management of the Contractor's remote access infrastructure;
- B. Implementing technical security controls (e.g. encryption, multi-factor authentication, IP whitelisting, geo-fencing); and
- C. Training users in regard to information security risks and best practices related remote access use.

In the event the Contractor shall be approved to utilize State-provided remote access connectivity to conduct work on systems, networks, and data repositories managed and hosted within the New Jersey Garden State Network (GSN) for State approved business, the Contractor shall collaborate with the State in accordance with State defined usage restrictions, configuration/connection requirements, and implementation guidance for remote access into the GSN.

F.15 Security Engineering and Architecture

The Contractor shall employ security engineering and architecture principles for all information technology assets, and such principles shall incorporate industry recognized leading security practices and sufficiently address applicable statutory and regulatory obligations. Applying security engineering and architecture principles shall include:

- A. Implementing configuration standards that are consistent with industry-accepted system hardening standards and address known security vulnerabilities for all system components;
- B. Establishing a defense in-depth security posture that includes layered technical, administrative, and physical controls;
- C. Incorporating security requirements into the systems throughout their life cycles;
- D. Delineating physical and logical security boundaries;
- E. Tailoring security controls to meet organizational and operational needs;
- F. Performing threat modeling to identify use cases, threat agents, attack vectors, and attack patterns as well as compensating controls and design patterns needed to mitigate risk;

- G. Implementing controls and procedures to ensure critical systems fail-secure and fail-safe in known states; and
- H. Ensuring information system clock synchronization.

F.16 Configuration Management

The Contractor shall ensure that baseline configuration settings are established and maintained in order to protect the confidentiality, integrity, and availability of all information technology assets. Secure configuration management shall include, at a minimum:

- A. Hardening systems through baseline configurations; and
- B. Configuring systems in accordance with the principle of least privilege to ensure processes operate at privilege levels no higher than necessary to accomplish required functions.

F.17 Endpoint Security

The Contractor shall ensure that endpoint devices are properly configured, and measures are implemented to protect information and information systems from a loss of confidentiality, integrity, and availability. Endpoint security shall include, at a minimum:

- A. Maintaining an accurate and updated inventory of endpoint devices;
- B. Applying security categorizations and implementing appropriate and effective safeguards on endpoints;
- C. Maintaining currency with operating system and software updates and patches;
- D. Establishing physical and logical access controls;
- E. Applying data protection measures (e.g. cryptographic protections);
- F. Implementing anti-malware software, host-based firewalls, and port and device controls;
- G. Implementing host intrusion detection and prevention systems (HIDS/HIPS) where applicable;
- H. Restricting access and/or use of ports and I/O devices; and
- I. Ensuring audit logging is implemented and logs are reviewed on a continuous basis.

F.18 ICS/SCADA/OT Security

The Contractor shall implement controls and processes to ensure risks, including risks to human safety, are accounted for and managed in the use of Industrial Control Systems (ICS), Supervisory Control and Data Acquisition (SCADA) systems and Operational Technologies (OT). ICS/SCADA/OT Security requires the application of all of the enumerated control areas in this RFQ, including, at a minimum:

- A. Conducting risk assessments prior to implementation and throughout the lifecycles of ICS/SCADA/OT assets;
- B. Developing policies and standards specific to ICS/SCADA/OT assets;

- C. Ensuring the secure configuration of ICS/SCADA/OT assets;
- D. Segmenting ICS/SCADA/OT networks from the rest of the Contractor's networks;
- E. Ensuring least privilege and strong authentication controls are implemented;
- F. Implementing redundant designs or failover capabilities to prevent business disruption or physical damage; and
- G. Conducting regular maintenance on ICS/SCADA/OT systems.

F.19 Internet of Things Security

The Contractor shall implement controls and processes to ensure risks are accounted for and managed in the use of Internet of Things (IoT) devices including, but not limited to, physical devices, vehicles, appliances and other items embedded with electronics, software, sensors, actuators, and network connectivity which enables these devices to connect and exchange data. IoT security shall include, at a minimum, the following:

- A. Developing policies and standards specific to IoT assets;
- B. Ensuring the secure configuration of IoT assets;
- C. Conducting risk assessments prior to implementation and throughout the lifecycles of IoT assets;
- D. Segmenting IoT networks from the rest of the Contractor's networks; and
- E. Ensuring least privilege and strong authentication controls are implemented.

F.20 Vulnerability and Patch Management

The Contractor shall implement proactive vulnerability identification, remediation, and patch management practices to minimize the risk of a loss of confidentiality, integrity, and availability of information system, networks, components, and applications. Vulnerability and patch management practices shall include, at a minimum, the following:

- A. Prioritizing vulnerability scanning and remediation activities based on the criticality and security categorization of systems and information, and the risks associated with a loss of confidentiality, integrity, availability, and/or privacy;
- B. Maintaining software and operating systems at the latest vendor-supported patch levels;
- C. Conducting penetration testing and red team exercises; and
- D. Employing qualified third-parties to periodically conduct Independent vulnerability scanning, penetration testing, and red-team exercises.

F.21 Mobile Device Security

The Contractor shall establish administrative, technical, and physical security controls required to effectively manage the risks introduced by mobile devices used for organizational business purposes. Mobile device security shall include, at a minimum, the following:

- A. Establishing requirements for authorization to use mobile devices for organizational business purposes;
- B. Establishing Bring Your Own Device (BYOD) processes and restrictions;
- C. Establishing physical and logical access controls;
- D. Implementing network access restrictions for mobile devices;
- E. Implementing mobile device management solutions to provide centralized management of mobile devices and to ensure technical security controls (e.g. encryption, authentication, remote-wipe, etc.) are implemented and updated as necessary;
- F. Establishing approved application stores from which applications can be acquired;
- G. Establishing lists approved applications that can be used; and
- H. Training of mobile device users regarding security and safety.

F.22 Network Security

The Contractor shall implement defense-in-depth and least privilege strategies for securing the information technology networks that it operates. To ensure information technology resources are available to authorized network clients and protected from unauthorized access, the Contractor shall:

- A. Include protection mechanisms for network communications and infrastructure (e.g. layered defenses, denial of service protection, encryption for data in transit, etc.);
- B. Include protection mechanisms for network boundaries (e.g. limit network access points, implement firewalls, use Internet proxies, restrict split tunneling, etc.);
- C. Control the flow of information (e.g. deny traffic by default/allow by exception, implement Access Control Lists, etc.); and
- D. Control access to the Contractor's information systems (e.g. network segmentation, network intrusion detection and prevention systems, wireless restrictions, etc.).

F.23 Cloud Security

The Contractor shall establish security requirements that govern the use of private, public, and hybrid cloud environments to ensure risks associated with a potential loss of confidentiality, integrity, availability, and privacy are managed. This shall ensure, at a minimum, the following:

- A. Security is accounted for in the acquisition and development of cloud services;
- B. The design, configuration, and implementation of cloud-based applications, infrastructure and system-system interfaces are conducted in accordance with mutually agreed-upon service, security, and capacity-level expectations;
- C. Security roles and responsibilities for the Contractor and the cloud provider are delineated and documented; and

- D. Controls necessary to protect sensitive data in public cloud environments are implemented.

F.24 Change Management

The Contractor shall establish controls required to ensure change is managed effectively. Changes are appropriately tested, validated, and documented before implementing any change on a production network. Change management provides the Contractor with the ability to handle changes in a controlled, predictable, and repeatable manner, and to identify, assess, and minimize the risks to operations and security. Change management controls shall include, at a minimum, the following:

- A. Notifying all stakeholders of changes;
- B. Conducting a security impact analysis and testing for changes prior to rollout; and
- C. Verifying security functionality after the changes have been made.

F.25 Maintenance

The Contractor shall implement processes and controls to ensure that information assets are properly maintained, thereby minimizing the risks from emerging information security threats and/or the potential loss of confidentiality, integrity, or availability due to system failures. Maintenance security shall include, at a minimum, the following:

- A. Conducting scheduled and timely maintenance;
- B. Ensuring individuals conducting maintenance operations are qualified and trustworthy; and
- C. Vetting, escorting and monitoring third-parties conducting maintenance operations on information technology assets.

F.26 Threat Management

The Contractor shall establish effective communication protocols and processes to collect and disseminate actionable threat intelligence, thereby providing component units and individuals with the information necessary to effectively manage risk associated with new and emerging threats to the organization's information technology assets and operations. Threat management includes, at a minimum:

- A. Developing, implementing, and governing processes and documentation to facilitate the implementation of a threat awareness policy, as well as associated standards, controls and procedures.
- B. Subscribing to and receiving relevant threat intelligence information from the US CERT, the organization's contractors, and other sources as appropriate.

F.27 Continuous Monitoring

The Contractor shall implement continuous monitoring practices to establish and maintain situational awareness regarding potential threats to the confidentiality, integrity, availability, privacy and safety of information and information systems through timely collection and review of security-related event logs. Continuous monitoring practices shall include, at a minimum, the following:

- A. Centralizing the collection and monitoring of event logs;
- B. Ensuring the content of audit records includes all relevant security event information;
- C. Protecting of audit records from tampering; and
- D. Detecting, investigating, and responding to incidents discovered through monitoring.

F.28 System Development and Acquisition

The Contractor shall establish security requirements necessary to ensure that systems and application software programs developed by the Contractor or third-parties (e.g. vendors, contractors, etc.) perform as intended to maintain information confidentiality, integrity, and availability, and the privacy and safety of individuals. System development and acquisition security practices shall include, at a minimum, the following:

- A. Secure coding;
- B. Separation of development, testing, and operational environments;
- C. Information input restrictions;
- D. Input data validation;
- E. Error handling;
- F. Security testing throughout development;
- G. Restrictions for access to program source code; and
- H. Security training of software developers and system implementers.

F.29 Project and Resource Management

The Contractor shall ensure that controls necessary to appropriately manage risks are accounted for and implemented throughout the System Development Life Cycle (SDLC). Project and resource management security practices shall include, at a minimum:

- A. Defining and implementing security requirements;
- B. Allocating resources required to protect systems and information; and
- C. Ensuring security requirements are accounted for throughout the SDLC.

F.30 Capacity and Performance Management

The Contractor shall implement processes and controls necessary to protect against avoidable impacts to operations by proactively managing the capacity and performance of its critical technologies and supporting infrastructure. Capacity and performance management practices shall include, at a minimum, the following:

- A. Ensuring the availability, quality, and adequate capacity of compute, storage, memory and

network resources are planned, prepared, and measured to deliver the required system performance and future capacity requirements; and

- B. Implementing resource priority controls to prevent or limit Denial of Service (DoS) effectiveness.

F.31 Third Party Management

The Contractor shall implement processes and controls to ensure that risks associated with third-parties (e.g. vendors, contractors, business partners, etc.) providing information technology equipment, software, and/or services are minimized or avoided. Third party management processes and controls shall include, at a minimum:

- A. Tailored acquisition strategies, contracting tools, and procurement methods for the purchase of systems, system components, or system service from suppliers;
- B. Due diligence security reviews of suppliers and third parties with access to the Contractor's systems and sensitive information;
- C. Third party interconnection security; and
- D. Independent testing and security assessments of supplier technologies and supplier organizations.

F.32 Physical and Environmental Security

The Contractor shall establish physical and environmental protection procedures that limit access to systems, equipment, and the respective operating environments, to only authorized individuals. The Contractor ensures appropriate environmental controls in facilities containing information systems and assets, to ensure sufficient environmental conditions exist to avoid preventable hardware failures and service interruptions. Physical and environmental controls shall include, at a minimum, the following:

- A. Physical access controls (e.g. locks, security gates and guards, etc.);
- B. Visitor controls;
- C. Security monitoring and auditing of physical access;
- D. Emergency shutoff;
- E. Emergency power;
- F. Emergency lighting;
- G. Fire protection;
- H. Temperature and humidity controls;
- I. Water damage protection; and
- J. Delivery and removal of information assets controls.

F.33 Contingency Planning

The Contractor shall develop, implement, test, and maintain a contingency plan to ensure continuity of operations for all information systems that deliver or support essential or critical business functions on behalf of the Contractor. The plan shall address the following:

- A. Backup and recovery strategies;
- B. Continuity of operations;
- C. Disaster recovery; and
- D. Crisis management.

F.34 Incident Response

The Contractor shall maintain an information security incident response capability that includes adequate preparation, detection, analysis, containment, recovery, and reporting activities. Information security incident response activities shall include, at a minimum, the following:

- A. Information security incident reporting awareness;
- B. Incident response planning and handling;
- C. Establishment of an incident response team;
- D. Cybersecurity insurance;
- E. Contracts with external incident response services specialists; and
- F. Contacts with law enforcement cybersecurity units.

F.35 Tax Return Data Security

A. PERFORMANCE

1. In performance of this Contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:
2. All work will be done under the supervision of the Contractor or the Contractor's employees;
3. Any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract Information contained in such material will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract Disclosure to anyone other than an officer or employee of the Contractor will be prohibited;
4. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output will be given the same level of protection as required for the source material;
5. The Contractor certifies that the data processed during the performance of this Contract will be

completely purged from all data storage components of his or her computer facility, and the Contractor will retain no output at the time the work is completed. If immediate purging of all data storage components is not possible, the Contractor certifies that any IRS data remaining in any storage component will be safeguarded to prevent unauthorized disclosures;

6. Any spoilage or any intermediate hard copy printout that may result during the processing of IRS data will be given to the agency or his or her designee. When this is not possible, the Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the agency or his or her designee with a statement containing the date of destruction, description of material destroyed, and the method used;
7. All computer systems receiving, processing, storing, or transmitting federal tax information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to federal tax information.
8. No work involving federal tax information furnished under this Contract will be subcontracted without prior written approval of the IRS;
9. The Contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office; and
10. The agency will have the right to void this Contract if the Contractor fails to provide the safeguards described above.

B. CRIMINAL/CIVIL SANCTIONS

1. Each officer or employee of any person to whom returns or return information is or may be disclosed will be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five (5) years', or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1;
2. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as one (1) year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such

unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for federal employees] in an amount equal to the sum of the greater of \$1,000 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431;

3. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to Contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a Contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000; and
4. Granting a Contractor access to Federal Tax Information (FTI) must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification per IRS Publication 1075. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, Contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6 of IRS Publication 1075, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For both the initial certification and the annual certification, the Contractor should sign, either with ink or electronic signature, a confidentiality statement certifying its understanding of the security requirements.

C. INSPECTION

The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this Contract. On the basis of such inspection, specific measures may be required in cases where the Contractor is found to be noncompliant with Contract safeguards.