DRAFT REQUEST FOR PROPOSAL: HAND TOOLS & HAND HELD POWER TOOLS & ACCESSORIES

The State of New Jersey is presenting this draft Request for Proposal (RFP) to solicit comments from the vendor community. This draft document is released for posting on the Division of Purchase and Property website on December 28, 2009. Comments and feedback will be accepted through January 15, 2010. Input from the vendor community should be sent to the State via e-mail only to: dpptool@treas.state.nj.us.

It is the intent of the State to accept comments which offer suggestions to improve the structure of the RFP rather than questions concerning requirements that might be entertained during a normal question and answer period. It is at the State’s sole discretion whether any comments submitted as a result of this draft RFP will be incorporated in the final RFP. Further, the State reserves the right to modify the RFP, exclusive of the vendor community’s comments. The State intends to issue the actual RFP as soon as practicable after the comment period.

Vendors must not prepare a bid proposal. No dates are included and only two of the three attachments are included in this document since it is a draft RFP. Similarly, no forms or price sheets are included. Once the final RFP is issued, it will contain such information.

Comments and feedback may only be submitted via e-mail. Telephone contact regarding this draft RFP or the forthcoming final document will not be accepted.
Draft Request for Proposal 00-0-00000
Hand Tools and Hand Held Power Tools and Accessories

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<thead>
<tr>
<th>Event</th>
<th>Date</th>
<th>Time</th>
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<tr>
<td>Bidder’s Electronic Question Due Date (Refer to RFP Section 1.3.1 for more information.)</td>
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<td>5:00 PM</td>
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<tr>
<td>Mandatory Pre-bid Conference (Refer to RFP Section 1.3.4 for important details about the new electronic bid option.)</td>
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<td>10:00 AM</td>
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<td>Optional Site Visit</td>
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<td>NOT APPLICABLE</td>
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<tr>
<td>Bid Submission Due Date (Refer to RFP Section 1.3.2 for more information.)</td>
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Dates are subject to change. All changes will be reflected in Addenda to the RFP posted on the Division of Purchase and Property website.

Small Business Set-Aside

- [x] Not Applicable
- [ ] Entire Contract
- [ ] Partial Contract
- [ ] Subcontracting Only

Category

- [ ] I
- [ ] II
- [ ] III

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

Using Agency/Agencies
State of New Jersey
Cooperative Purchasing Members

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1.0 INFORMATION FOR BIDDERS

1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury, on behalf of various State using agencies and cooperative purchasing participants. The purpose of this RFP is to solicit bid proposals for hand tools and hand held power tools and accessories.

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

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

The State intends to extend the contract awarded to the Purchase Bureau’s cooperative purchasing partners. These partners include quasi-state agencies, counties, municipalities, school districts, volunteer fire departments, first aid squads, independent institutions of higher learning, County colleges and State colleges. Although the State, with the assent of the vendors, is making the use of any contract resulting from this RFP available to non-State Agencies, the State makes no representation as to the acceptability of any State RFP terms and conditions under the Local Public Contracts Law or any other enabling statute or regulation.

1.2 BACKGROUND

This RFP consolidates the specifications for two (2) current term contracts, T-0226, for hand tools and T-0227, for power tools and accessories, presently due to expire on April 30, 2010.

It is the State’s intent to reduce the number of contracts when compared to the current environment and to pursue a strategic direction that reduces direct and indirect costs. Further, the intent is to stimulate and achieve technological and supply chain enhancements. Suppliers with the ability to provide the broadest product mix and who can demonstrate technological efficiencies, will receive preference over suppliers offering less comprehensive solutions, price and other factors considered. Important: It is the State’s preference to issue a single contract for its requirements.

Bidders interested in the current contract specifications and pricing information may review the current contracts T-0226 and T-0227 at: http://www.state.nj.us/treasury/purchase/pricelists.shtml. Bidders should be aware, however, that significant changes in the terms, conditions and specifications have been made to enable the consolidation of the two (2) contracts.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The Purchase Bureau will electronically accept questions and inquiries from all potential bidders via the web at http://ebid.nj.gov/QA.aspx.

Questions should be directly tied to the RFP and asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.
Bidders must not contact the Using Agency directly, in person, by telephone or by email, concerning this RFP.

The cut-off date for electronic questions and inquiries relating to this RFP is indicated on the cover sheet. Addenda to this RFP, if any, will be posted on the Purchase Bureau website after the cut-off date. (See RFP Section 1.4.1 for further information.)

1.3.2 SUBMISSION OF BID PROPOSAL

In order to be considered for award, the bid proposal must be received by the Purchase Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY BID PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL BE REJECTED. THE DATE AND TIME IS INDICATED ON THE COVER SHEET. THE LOCATION IS AS FOLLOWS:**

BID RECEIVING ROOM - 9TH FLOOR
PURCHASE BUREAU
DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230

Directions to the Purchase Bureau are available on the web at: http://www.state.nj.us/treasury/purchase/directions.shtml.

**Note:** Bidders using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Purchase Bureau.

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

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

1.3.3 ELECTRONIC BIDDING (EBID)

The Division is pleased to announce its electronic procurement modernization process. This RFP provides to the bidder the opportunity to electronically submit its bid proposal. A new electronic bidding – “eBid” – application is being made available to vendors to promote an easier, more efficient method to submit bid proposals. The State thanks the bidder in advance for its anticipated participation.

Instructor-led and online training sessions are available, as explained below. In the next several months, the Division will be moving to eBid-only submissions, i.e., paper proposals will no longer be accepted by the Division. It is strongly recommended that all bidders attend an instructor-led training session prior to the scheduled bid opening date and at least once before attempting to submit an eBid. It will be the bidder’s responsibility to ensure that the eBid has been properly submitted.

**IMPORTANT NOTE:** Bidders who wish to submit an eBid must be pre-registered for a Business Registration Certificate from the NJ Department of Revenue. The bidder is required to have the Contractor's Certification number located on the Division of Revenue certificate in order to
electronically submit a bid. This certificate may be obtained by visiting the following website: http://www.state.nj.us/treasury/revenue/busregcert.htm.

Instructor-Led Training Sessions:

The Division will be conducting instructor-led eBid training sessions. The purpose of the instructor-led eBid training is to provide an opportunity to walk bidders through the electronic bid process. Division staff will be available to provide a step-by-step demonstration during the training session on how to navigate in the new eBid website. The bidder is strongly encouraged to attend an instructor-led training session.

Instructor-led eBid training sessions will be held every Wednesday, 10:30 AM ET, at the following location:

Department of the Treasury
Division of Purchase and Property
Purchase Bureau
33 West State Street-9th Floor Bid Room
Trenton, NJ 08625-0230

Directions to the Division are available at http://www.state.nj.us/treasury/purchase/directions.shtml

On-line Training Sessions:

If the bidder cannot attend an instructor-led training session, online training for the eBid process is available on the web at http://www.state.nj.us/treasury/purchase/index.shtml.

1.3.4 MANDATORY PRE-BID CONFERENCE

The date and time of the Mandatory Pre-Bid Conference is indicated on the cover sheet. The location of the Mandatory Pre-Bid Conference will be as follows:

Department of the Treasury
Division of Purchase and Property
Purchase Bureau
33 West State Street-9th Floor Bid Room
Trenton, NJ 08625-0230

A bid proposal will be automatically rejected from any bidder that was not represented or failed to properly register at the Mandatory Pre-Bid Conference.

An attendee may represent no more than one potential bidding entity.

The purpose of the Mandatory Pre-Bid Conference is to provide a structured and formal opportunity for the State to accept questions from vendors regarding this RFP.

1.4 ADDITIONAL INFORMATION

1.4.1 ADDENDA: REVISIONS TO THIS RFP

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

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

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

1.4.2 BIDDER RESPONSIBILITY

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

1.4.3 COST LIABILITY

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

1.4.4 CONTENTS OF BID PROPOSAL

A bidder may designate specific information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The State reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter. The State will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal. In the event of any challenge to the bidder’s designation of confidential/proprietary materials, the bidder shall be solely responsible for defending its designation and the State shall have no responsibility therefor.

By signing the cover sheet of this RFP, the bidder waives any claims of copyright protection set forth within the manufacturer’s price list and/or catalogs. The price lists and/or catalogs must be accessible to State using agencies and cooperative purchasing partners and thus have to be made public to allow all eligible purchasing entities access to the pricing information.

All bid proposals, with the exception of information determined by the State or the Court to be proprietary, are available for public inspection after the Letter of Intent to Award is issued. At such time, interested parties can make an appointment with the Purchase Bureau to inspect bid proposals received in response to this RFP.

1.4.5 BID OPENING

On the date and time bid proposals are due under the RFP, all information concerning the bid proposals submitted may be publicly announced and those bid proposals, except for information appropriately designated as confidential, shall be available for inspection and copying. In those cases where negotiation is contemplated, only the names and addresses of the bidders submitting bid proposals will be announced and the contents of the bid proposals shall remain confidential until the Notice of Intent to Award is issued by the Director.
1.4.6 PRICE ALTERATION

Bid prices must be typed or written in ink. Any price change (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award from being made to the bidder.

1.4.7 BID ERRORS

In accordance with N.J.A.C. 17:12-2.11, “Bid Errors”, a bidder may withdraw its bid as described below.

A bidder may request that its bid be withdrawn prior to bid opening. Such request must be made, in writing, to the Supervisor of the Business Unit. If the request is granted, the bidder may submit a revised bid as long as the bid is received prior to the announced date and time for bid opening and at the place specified.

If, after bid opening but before contract award, a bidder discovers an error in its proposal, the bidder may make written request to the Supervisor of the Bid Review Unit for authorization to withdraw its proposal from consideration for award. Evidence of the bidder’s good faith in making this request shall be used in making the determination. The factors that will be considered are that the mistake is so significant that to enforce the contract resulting from the proposal would be unconscionable; that the mistake relates to a material feature of the contract; that the mistake occurred notwithstanding the bidder’s exercise of reasonable care; and, that the State will not be significantly prejudiced by granting the withdrawal of the proposal.

Note: a PB-36 complaint form may be filed and forwarded to the Division’s Contract Compliance and Audit Unit (CCAU) for handling. A record of the complaint will also be maintained in the Division’s vendor performance file for evaluation of future bids submitted.

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

Department of the Treasury
Purchase Bureau, PO Box 230
33 West State Street – 9th Floor
Trenton, New Jersey 08625-0230
Attention: Supervisor, Bid Review Unit

If, during a bid evaluation process, an obvious pricing error made by a potential contract awardee is found, the Director shall issue written notice to the bidder. The bidder will have five (5) days after receipt of the notice to confirm its pricing. If the vendor fails to respond, its bid shall be considered withdrawn, and no further consideration shall be given it.

If it is discovered that there is an arithmetic disparity between the unit price and the total extended price, the unit price shall prevail. If there is any other ambiguity in the pricing other than a disparity between the unit price and extended price and the bidder’s intention is not readily discernible from other parts of the bid proposal, the Director may seek clarification from the bidder to ascertain the true intent of the bid.

1.4.8 JOINT VENTURE

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture’s bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Disclosure of Investigations and Actions Involving Bidder, Affirmative Action
Employee Information Report, MacBride Principles Certification, and Business Registration or Interim Registration must be supplied for each party to a joint venture.

1.5 PRICE LIST AND/OR CATALOG PRICING

The manufacturer’s preprinted price lists and/or bidder’s catalogs submitted with the bid proposal will govern for the period of the contract except as provided for in section 1.5.1 below. The bidder also acknowledges that any reference to conditions or provisions affecting the bid pricing as entered for the RFP price lines, including, but not limited to, minimum orders, order threshold charges, service charges, price escalation clauses, FOB shipping point limitations, and shipping charges, contained in the preprinted price lists, catalogs, and/or literature, is not a condition or provision of its proposal and will not be part of any State contract awarded as a result of this RFP.

1.5.1 PRICE LIST/CATALOG PRICE ADJUSTMENTS

All discounts shall be firm for the length of the contract unless, with the agreement of the State and the contractor, those discounts are increased.

The contractor may decrease prices at any time. In the event of a price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order(s) and on any subsequent order placed during the contract period. The contractor must notify the Purchase Bureau contact of a price decrease within ten (10) business days of the effective date. The contractor’s online catalog on the State contract website must be updated on the effective date of the price decrease.

Contractors are encouraged to offer additional discounts for one time order/delivery of larger orders. These discounts may be based on either a predetermined aggregate dollar amount or on a predetermined quantity. IMPORTANT: These discounts are over and above the discounts offered in the bid proposal and are not quantity breaks. Agencies should request such discounts for larger volume purchases under the contract. Agencies shall document such additional discounts in the agency files. The bidder should indicate any additional discounts it will offer during the term of the contract in the space provided in Attachment 3.

The contractor may offer promotional pricing involving further price reductions from its manufacturer’s/catalog list prices for a specified period of time. The contractor shall submit documentation to the Purchase Bureau contact within ten (10) business days of the proposed effective date identifying the proposed starting and ending dates of the promotion; products involved; and promotional prices or discounts compared to previous prices or discounts. Promotional prices shall be available to all using agencies and cooperative purchasing participants. Once accepted, the contractor shall provide notice of the promotion including pricing information on the State contract website.

1.5.1.1 PRICE INCREASES

Price increases are subject to the approval of the Director, Division of Purchase and Property. Price increases will only be considered by the State once a year on the anniversary date of the contract. A request for a price increase must be submitted ninety (90) days prior to the proposed effective date and must be supported with documentation justifying the increase. The amount of such increase is limited to the lesser of the manufacturer’s percentage increase or the increase in the Producer Price Index (PPI). The PPI for hand tools will be PCU3322123322122, mechanics’ hand service tools, and for hand held power tools and accessories, PCU333991333991P, power-driven hand tool manufacturing, primary products. The identifying numbers provided are taken from the Bureau of Labor Statistics, PPI Industry Data tables.
2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

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

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

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

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

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

Contractor - The contractor is the bidder awarded a contract.

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

Division - The Division of Purchase and Property.

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

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

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

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

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

State - State of New Jersey

State Contract Manager – The individual responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements in the Scope of Work, as set forth in Sections 8.1, 8.1.1 and 8.1.2.

Subcontractor – An entity having an arrangement with a State contractor, where the State contractor uses the products and/or services of that entity to fulfill some of its obligations under its State contract, while retaining full responsibility for the performance of all of its [the contractor's] obligations under the contract, including payment to the subcontractor. The subcontractor has no legal relationship with the State, only with the contractor.

Using Agencies- The entities for which the Division has issued this RFP.
3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

3.1 ELIGIBLE TOOLS

This specification is general in nature and does not include all varieties of hand tools and hand held power tools which may be used by State agencies. Hand tools and hand held power tools covered by this specification shall be portable and shall be suitable for use in the following trades: carpenter, electrician, mason, mechanic, plumber, HVAC technician, sheet metal mechanic and garden/landscaping. Hand held power tools shall be either electric, battery-operated or air powered. Hand held power tool accessories which function with the tools such as drill bits, saw blades, router bits, etc. shall be included in this contract. Using agencies may purchase hand tool and hand held power tool sets (combinations of popular tools and tool groups pre-packaged for economy) and tool storage chests, not to exceed $750.00 in cost.

IMPORTANT: Tools which require special arrangements to lift, locate or operate at a work site location, or which require more than one (1) person to operate, are not eligible under this contract. Bidders are cautioned that penalties are stringent when contractors are found to sell materials and services that are not covered under a contract. Section 5.6 provides additional information on this point.

3.1.1 APPROVED BRANDS

Based on historic usage of this contract and also on non-contract using agency purchases, the following brands are included for this bid. Bidders who choose to offer additional brands and discounts for such brands are encouraged to do so; however, a bidder submitting a proposal must offer a bid proposal from at least one (1) of these brands and must offer the manufacturer's full line to have its bid proposal considered:

Ames/True Temper
Craftsman
DeWalt
Greenlee
Klein
Milwaukee
Norton
Proto
Rigid
Westward

NOTE: All brands will be awarded; however, as part of the reduction in the number of contracts, bidders offering all or most of the approved brands will receive preference, price and other factors being equal. See section 7.2 for information on the evaluation of brand offerings.

3.1.2 ADDITIONAL BRANDS

Additional brand offerings beyond those approved brands in section 3.1.1 above are encouraged. Additional brands will be evaluated on usefulness for the using agencies and the cost of those tool brands when compared to other bidders’ proposals for the same tool brands. The State’s non-contract usage will be used as part of the evaluation. Bidders who wish to offer additional brands for inclusion in their bid proposal must provide all information required on Attachment 2 and must include a current price list, manufacturer’s or catalog, which shall govern its pricing for those brands.
A bidder not proposing additional brands must submit the form blank and indicate “No additional brands offered or proposed”.

3.2 PERFORMANCE STANDARDS

Tools and accessories must be new, of the latest design and in current production.

All products must meet the following performance criteria:

**Power Tools:**
- Rated for Industrial/Professional/Heavy Duty Grade use
- UL Listed
- OSHA certified for safety requirements

**Hand Tools:**
- Rated for Industrial/Professional/Heavy Duty Grade Use
- OSHA certified for safety requirements

3.3 DELIVERY

For in-stock items, delivery shall be within 2-5 business days. Out of stock items shall be delivered within twenty (20) business days unless otherwise agreed upon by the using agency and the contractor. All orders are to be delivered FOB destination with no freight costs charged to the using agencies.

3.4 SERVICE CRITERIA

The contractor must be able to deliver to all areas of the State, to all State agencies, quasi-State agencies, authorities and to all cooperative purchasing participants. Delivery shall be FOB destination. Freight charges will not be accepted.

Restocking charges for tool and/or accessory material returns by using agencies shall not be permitted.

3.5 WARRANTY

All tools and accessories shall have the standard manufacturer’s warranty. Warranty repairs and warranty returns shall be solely at the expense of the contractor.

3.6 E-COMMERCE

Each contractor shall maintain a State-specific contract web site to enable access to and ordering from the contractor’s online catalog for all using agencies.

The State contract web site must offer the following features to be available to all using agencies:

- Current State-specific contract pricing and discount(s). Pricing and discounts to be updated as required per section 1.5.1 and 1.5.1.1.
- Detailed item descriptions, with pictures, as appropriate, for clarity
• Indicators for recycled product(s) and minority manufactured product(s), where possible
• Robust search engine capabilities
• Order status/tracking
• Electronic quotation capability for volume pricing and special order(s) which shall be linked to the State-specific website
• Help and “contact us” functions
• Additional links or information may be placed on the screen to access additional product literature, the vendor’s home page, the history of the company, etc.
• Online ordering and “shopping-cart” capability (This requirement is subject to the State’s eProcurement schedule/technology requirements and may take 30-45 days to incorporate into the State contract website.)

NOTE: The Universal Resource Locator (URL) for the State-specific contract page must be supplied prior to the implementation of the contract. The State reserves the right to permit/require alternate website configurations to facilitate ease of use by using agencies.

The bidder must be able to demonstrate previous experience with eCommerce solutions. Proposals from bidders who cannot demonstrate past experience with eCommerce catalog and online/punch out ordering solutions will not be considered. The bidder should provide a sample mock-up of its proposed State-specific web page with its bid proposal in the space provided in Attachment 3. The bidder must also be able to provide examples of other contract specific websites it supports which shall include ecatalog and punch out capabilities.

It is understood that a bidder may not have the State-specific website required above at the date and time of its bid proposal; however, it must have a website in place and functioning prior to contract implementation. Failure to have a fully functioning website up and available for use by using agencies within fifteen (15) days of notification of intent to award will result in the contract not being awarded.

The contractor’s website must have an uptime of 99% during the hours of 7:00 AM to 6:00 PM ET, Monday through Friday. All website maintenance shall be performed outside of the hours of 7:00 AM to 6:00 PM ET, Monday through Friday.

3.6.1 E-COMMERCE TRANSITION

A State-specific contract website fulfilling the online catalog requirements from section 3.6 shall be operational within fifteen (15) days of the letter of intent to the awarded contractor or the contract will not be awarded. Online ordering and a “punch out” interface shall be developed and implemented jointly by the State eProcurement staff and the contractor approximately 30-45 days after contract award. Online ordering and the “punch out” system and process shall be compatible with the State’s existing systems and meet all State requirements. Acceptance of an award implies the contractor’s acceptance of and compliance with the State’s eCommerce requirements at the contractor’s expense. The State will not be responsible for any costs associated with the eCommerce systems and implementation.
4.0 BID PROPOSAL PREPARATION AND SUBMISSION

4.1 GENERAL

The bidder is advised to thoroughly read and follow all instructions contained in this RFP, including the instructions on the RFP’s signatory page, in preparing and submitting its bid proposal.

Note: Bid proposals shall not contain URLs (Uniform Resource Locators, i.e., the global address of documents and other resources on the world wide web) or web addresses. Inasmuch as the web contains dynamically changing content, inclusion of a URL or web address in a bid response is indicative of potentially changing information. Inclusion of a URL or web address in a bid response implies that the bid’s content changes as the referenced web pages change.

The forms discussed herein and required for submission of a bid proposal in response to this RFP are available on the web at: http://www.state.nj.us/treasury/purchase/bid/summary/00000000.shtml unless noted otherwise.

4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP signatory page accompanying this RFP. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. State regulation mandates that late bid proposals are ineligible for consideration. The exterior of all bid proposal packages are to be labeled with the bid identification number and the final bid opening date or risk not being received in time.

4.3 BID SUBMITTAL INSTRUCTION-EBID VS NON EBID

4.3.1 EBID SUBMISSION OF BID PROPOSAL

If submitting an eBid, hard copy submittal is not required. Instructions to enroll and submit eBids are located at http://ebid.nj.gov.

If both eBid and a hard copy of the bidder’s proposal are submitted, the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions.

4.3.2 NON EBID SUBMITTAL

The Bidder must submit one (1) complete ORIGINAL bid proposal, clearly marked as the “ORIGINAL” bid proposal. The Bidder should submit four (4) full, complete and exact copies of the original. The copies requested are necessary in the evaluation of the bid proposal. A Bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. It is suggested that the Bidder make and retain a copy of its bid proposal.

4.4 BID PROPOSAL CONTENT

4.4.1 FORMS/PROOF OF REGISTRATION REQUIRED WITH BID PROPOSAL

4.4.1.1 SIGNATORY PAGE

The bidder shall complete, including signature of an authorized representative of the bidder, and submit the Signatory Page accompanying this RFP. If the bidder is a limited partnership, the
Signatory Page must be signed by a general partner. If the bidder is a joint venture, the Signatory Page must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the bid proposal.

4.4.1.2 OWNERSHIP DISCLOSURE FORM

In the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the bid proposal. Failure to do so will preclude the award of a contract.

4.4.1.3 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (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. The bidder shall use the Disclosure of Investigations and Actions Involving Bidder form for this purpose.

4.4.1.4 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE

FAILURE BY THE BIDDER TO SUBMIT A COPY OF ITS BUSINESS REGISTRATION CERTIFICATE (OR INTERIM REGISTRATION) FROM THE DIVISION OF REVENUE WITH THE BID PROPOSAL MAY BE CAUSE FOR REJECTION OF THE BID PROPOSAL.

The bidder may go to www.nj.gov/njogs to register with the New Jersey Division of Revenue or to obtain a copy of an existing Business Registration Certificate. Further information is provided in Section 1.1 of the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP.

4.4.2 FORMS REQUIRED BEFORE CONTRACT AWARD AND THAT SHOULD BE SUBMITTED WITH THE BID PROPOSAL

4.4.2.1 MACBRIDE PRINCIPLES CERTIFICATION

The bidder is required to complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. The requirement is a precondition to entering into a State contract.

4.4.3 SUBMITTALS

4.4.3.1 MANUFACTURERS’ PRICE LISTS/BIDDER’S CATALOGS

The bidder must submit a manufacturer’s price list or catalog with pricing for each brand bid with its bid proposal. A pricelist/catalog that contains numerous brands/models is acceptable; however, only those items for which the Purchase Bureau has received the applicable price list will be considered for award. If a catalog also serves as its price list, then a separate price list is not necessary. If a price list has multiple pricing columns within its price list, the bidder must indicate the pricing column that will be used; if not, the list price column will be used for the evaluation. Although submission of catalogs is not required with the bid proposal (unless the catalog also serves as a price list), the State may require submission of a brand catalog within 5 working days after written request by the State. Catalogs may be used to assist in the evaluation, therefore, the catalog must show the product that is being bid from the price list.
NOTE: After contract award, the contractor may be required to provide the using agencies and cooperative purchasing participants with copies of its price lists and catalogs at no additional cost. The successful bidder will also be responsible for website catalog roll-out and support.

4.4.3.2 WEB PAGE SAMPLE

The bidder should submit a copy of its proposed State-specific contract web page with its bid proposal. The sample should meet the requirements defined in section 3.6. The sample should be provided as part of Attachment 3. If a bidder does not include the sample with its bid proposal, it must do so within five (5) business days of an oral or written request. Failure to comply within that timeframe will result in the rejection of the bidder’s proposal.

In addition to the webpage sample, the bidder should also provide at least one (1) link to a comparable contract web page it has for an existing customer.

4.4.3.3 BIDDER EXPERIENCE - DATA SHEETS

The bidder must provide all of the information requested in the Bidder’s Data Packet accompanying this RFP.

4.4.3.4 ATTACHMENT 1

The bidder must complete Attachment 1 for the items which are included in the brand(s) for which it is submitting a proposal. The prices included by the bidder shall be the maximum prices it intends to charge the State for those items and shall be consistent with the discount which it is offering for the brand(s) in its bid proposal. In spite of the State’s best efforts, it is possible that some obsolete items have been included. The bidder must substitute with the current item in any such instance.

4.4.3.5 ATTACHMENT 2

Discounts for brands or manufacturers not specified in the individual price sheets must be proposed by completing Attachment 2 and completing all information requested in the space provided. A bidder submitting a proposal with additional brands must submit a manufacturer’s price list or catalog with pricing information for the additional brands it is offering. Additional brands will be evaluated based on utility to the using agencies according to non-contract usage and agency input.

A bidder not proposing additional brands should submit the form blank and indicate “No additional brands offered or proposed. A bidder not submitting a form will be considered to have offered no additional brands.

4.4.3.6 ATTACHMENT 3

The bidder must complete Attachment 3 to confirm compliance with the terms of the specification and to provide additional information on its capabilities and price/product offerings.

4.4.4 FINANCIAL CAPABILITY OF THE BIDDER

Upon request, in order to provide the State with the ability to judge the bidder’s financial capacity and capabilities to undertake and successfully complete the contract, the bidder should submit two years of certified financial statements that include a balance sheet, income statement and statement of cash flow, and all applicable notes for the most recent calendar year or the bidder’s most recent fiscal year. If certified financial statements are not available, the bidder should provide
either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statements, together with a certification from the Chief Executive Officer and the Chief Financial Officer, that the financial statements and other information included in the statements fairly present in all material respects the financial condition, results of operations and cash flows of the bidder as of, and for, the periods presented in the statements. In addition, the bidder should submit a bank reference.

If the information is not supplied with the bid proposal, the State may still require the bidder to submit it. If the bidder fails to comply with the request within seven (7) business days, the State may deem the proposal non-responsive.

The bidder may designate specific financial information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The bidder may submit specific financial documents in a separate, sealed package clearly marked “Confidential-Financial Information” along with its Bid Proposal.

The State reserves the right to make the determination whether to accept the bidder’s assertion of confidentiality and will advise the bidder accordingly.

4.4.5 PRICING

In order for the State to make sound business judgments regarding products and prices offered in response to this RFP, the bidder must supply, with its bid proposal, the information requested on the RFP’s pricing lines in sufficient detail as to allow the State to determine the firm, fixed bid pricing and the precise product or service being offered, i.e., with no possible misinterpretation of the price or product/service being offered by the bidder. A bidder’s failure to provide, within its bid proposal, the information deemed by the State to be essential for product identification or price determination will result in rejection of that bidder’s proposal. Notwithstanding the aforementioned material obligation, in order to support the State’s decision-making process, the State may require a bidder to provide additional information or documentation that has been deemed not to be material to product identification or price determination, in which case, the bidder shall, within the time limit set forth in the written request, comply with said request. Each bidder is required to hold its prices firm through issuance of contract.

4.4.6 METHOD OF BIDDING/PRICE SHEET INSTRUCTIONS

A bidder may bid one (1) or more or all of the tool brands in the price sheets and may also offer a bid proposal for brands which are not included in the approved brands; however, a bidder must submit a bid proposal which includes at least one of the approved brands for its bid to be considered. A bidder must be able to provide the manufacturer’s full line for any brand for which it submits a bid proposal. A bidder must be able to meet all performance and service criteria for the tool lines for which it submits a bid proposal. IMPORTANT: Preference will be give to bidders submitting a bid proposal for most, or all, of the brands. As stated previously, the State would prefer to award a single contract. For information on the evaluation methodology, see section 7.2.1.

Attachment 1 comprises a list of the most frequently ordered items (or those with the greatest expenditures) historically. A bidder must price each item for the brand(s) for which it is submitting a bid proposal consistent with the discount percentage it is offering in its bid proposal. The bidder must substitute the current item for any obsolete items in the listing. The attachment will be used to validate the discounts the bidder is offering in its bid proposal and to determine the lowest cost bid. It will establish the maximum price for those items during the contract term subject to price adjustment in accordance with section 1.5.1 and 1.5.1.1 of the RFP.
The bidder must also submit its proposed discount on the appropriate price sheet for the brand(s) or manufacturer(s) for which it is submitting a bid proposal. A bidder may bid a different discount for different tool groups within a brand (for example, a bidder may choose to offer a 55% discount for grinding/sanding tools and a 58% discount for drills) in its bid proposal. Volume discounts for large value, single orders will not be considered during the bid evaluation; however, a bidder may submit its volume discounts for such bulk orders (based on its predetermined dollar/quantity value) with its bid. Such discounts should be offered and detailed on Attachment 2. Please note: volume discounts are not quantity break order points but are additional discounts over and above the discount offered in the original bid proposal for single large orders as determined by the contractor, typically on the basis of a dollar amount. Break point pricing is not permitted.

Discount(s) shall be firm for the duration of the contract and may not be changed once awarded unless the change is an increase in the discount originally offered to the State.

A bidder’s proposal should represent the best pricing structure it can offer the State. Discounts for brands or manufacturers not specified in the individual price sheets may be proposed by using Attachment 2 and completing the information requested in the space provided. Alternative brands will be evaluated on utility to the using agencies based on non-contract usage and agency input.

**IMPORTANT:** a bidder must complete Attachment 1 and the price sheet(s) for the brands for which it is submitting a bid proposal. A bidder who completes only one of these forms or who submits incomplete forms will have its bid proposal rejected for those price lines.

### 4.4.6.1 POST CONTRACT PRICING

The contractor’s discounts shall be firm for the duration of the contract unless increased with the agreement of the State and contractor. Once awarded a contract, the contractor may adjust pricing in the following situations:

**Additional Discounts:** Contractors are encouraged to offer additional discounts for one time delivery of larger quantity/volume orders. These discounts may be based on either a predetermined aggregate dollar amount or on a predetermined quantity of items. Agencies should request such quantity discounts for larger quantity purchases under the contract. Agencies shall document such additional discounts in the agency files. **NOTE:** These are further discounts over and above the discounts the bidder offers in its original bid proposal and are not quantity breaks.

**Best Pricing Offer:** During the contract term, if the State becomes aware of better pricing offered by the contractor for substantially the same or a smaller quantity of a product outside the contract, but upon the same or similar terms of the contract, then at the discretion of the State and after consultation with the contractor, the price under the contract shall be immediately reduced to the lower price.

**Sales Promotions:** In addition to decreasing prices for the balance of the contract term due to a change in market conditions, a contractor may conduct sales promotions involving price reductions for a specified time period. A contractor shall submit to the contract buyer documentation identifying the proposed starting and ending dates of the promotion, products involved, and promotional prices compared to the contract’s standard discounted prices. Promotional prices shall be available to all agencies and cooperative purchasing participants. Upon approval, the contractor shall provide conspicuous notice of the promotion on the State contract website.

**Price Increases:** Price increases will only be considered by the State once a year on the anniversary date of the contract. A request for a price increase must be submitted ninety (90) days prior to the proposed effective date and must be supported with documentation justifying the increase. The amount of such increase is limited to the lesser of the manufacturer’s percentage
increase and the increase in the Producer Price Index (PPI). The PPI for hand held tools will be PCU332212322122, mechanics' hand service tools, and for hand held power tools and accessories PCU333991333991P, power-driven hand tool manufacturing, primary products. The identifying numbers provided are for the two (2) types of tools and are taken from the Bureau of Labor Statistics PPI Industry Data tables.

4.4.7 COOPERATIVE PURCHASING

The bidder should complete the Cooperative Purchasing Form indicating willingness or unwillingness to extend State contract pricing and terms to Cooperative Purchasing partners.
5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addendum to this RFP, the contractor's bid proposal and the Division's Notice of Award.

Unless specifically stated within this RFP, the Special Contractual Terms and Conditions of the RFP take precedence over the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP.

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

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

5.2 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of three (3) years. The anticipated “Contract Effective Date” is provided on the signatory page accompanying this RFP. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract. The contract may be extended for all or part of three (3) one-year periods, by the mutual written consent of the contractor and the Director. During the term of any extension, pricing or discounts may only be adjusted consistent with the terms of sections 1.5.1 and 1.5.1.1. Purchase orders may be placed against the contract up to and including the end of business on the last day of the contract, for delivery no more than thirty (30) days after contract expiration.

5.3 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than ninety (90) days beyond the expiration date of the contract.

5.4 CONTRACT AMENDMENT

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

5.5 CONTRACTOR’S WARRANTY

a) The Contractor is responsible for the quality, technical accuracy, timely completion and delivery of all deliverables and other services to be furnished by the Contractor under the Contract. The Contractor agrees to perform in a good, skillful and timely manner all services set forth in the Contract.

b) The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services and deliverables furnished under the Contract. The approval of interim deliverables furnished under the Contract shall not in any way relieve the Contractor of fulfilling all of its obligations under the Contract. The acceptance or payment for any of the services rendered under the Contract shall not be construed as a waiver by the State or Agency, of any rights under the agreement or of any cause of action arising out of the Contractor’s performance of the Contract.
c) The acceptance of, approval of or payment for any of the services performed by the Contractor under the Contract shall not constitute a release or waiver of any claim the State or Agency, has or may have for latent defects or errors or other breaches of warranty or negligence.

5.6 ITEMS ORDERED AND DELIVERED

The using agencies are authorized to order and the contractors are authorized to ship only those items covered by the contracts resulting from this RFP. If a review of orders placed by the using agencies reveals that material other than that covered by the contract has been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or as a basis not to award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price.

The contract involves items which are necessary for the continuation of ongoing critical State services. Any delay in delivery of these items would disrupt State services and would force the State to immediately seek alternative sources of supply on an emergency basis. Timely delivery is critical to meeting the State’s ongoing needs.

5.7 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS

In the event that the contractor fails to comply with any material contract requirements, the Director may take steps to terminate the contract in accordance with the State administrative code and/or authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor’s price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor.

5.8 MANUFACTURING/PACKAGING REQUIREMENTS

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

5.8.2 All products shall be manufactured and packaged under modern sanitary conditions in accordance with federal and state law and standard industry practice.

5.8.3 All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to ensure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by the using agency at the contractor’s expense.

5.9 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1.1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

5.10 CONTRACT PRICE INCREASE (PREVAILING WAGE)

If the Prevailing Wage Act (N.J.S.A. 34:11-56 et seq.) is applicable to the contract, the contractor may apply to the Director, on the anniversary of the effective date of the contract, for a contract price increase. The contract price increase will be available only for an increase in the prevailing wages of trades and occupations covered under this contract during the prior year. The contractor
must substantiate with documentation the need for the increase and submit it to the Director for review and determination of the amount, if any, of the requested increase, which shall be available for the upcoming contract year. No retroactive increases will be approved by the Director.

5.11 PUBLIC WORKS CONTRACT-ADDITIONAL AFFIRMATIVE ACTION REQUIREMENT

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

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

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

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

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

5.12 CONTRACT ACTIVITY REPORT

As required by paragraph 3.19 of the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP, contractors must provide, on a calendar quarter basis, to the assigned Purchase Bureau representative, a record of all purchases made under the contract resulting from this RFP. This reporting requirement includes sales to State using agencies, political sub-divisions thereof and, if permitted under the terms of the contract, sales to counties, municipalities, school districts, volunteer fire departments, first aid squads and rescue squads, independent institutions of higher education, state and county colleges and quasi-state agencies.
Quasi-state agencies include any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

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

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

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

Contractors must submit the required information in Microsoft Excel format.

At a minimum, the following data must be reported on a quarterly and annual contract basis:

- Contractor's Name
- Reporting Period
- Total dollar value of purchases per quarter separated by State agency and cooperative purchasing participant totals.
- Excel report itemizing total purchases for period that includes columns for the following information: manufacturer's name, agency name, product number, item description, product group number, unit of measure, quantity, manufacturer/contractor list price, percentage discount taken, net unit price and total net cost.

Upon request, the contractor shall report to the buyer, spend reports with certified and other minority business enterprises. Reports must include the period covered, the name, minority code and Federal Employer Identification Number of each minority vendor utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority vendor on behalf of each purchasing agency ordering under the terms of this contract.

Failure to provide quarterly and annual sales reports within thirty (30) calendar days following the end of each quarter and/or contract year may result in the contract supplier being found in default and cancellation of the contract by State Purchasing.

**5.13 BUSINESS REVIEW MEETINGS**

In order to maintain communications between the State and the contractor, the Purchase Bureau representative may request a quarterly business review meeting. The business review meeting may involve, but not be limited to, the following:

- Review of contractor performance including service issues, if any
- Review of required spend reports
- Continuous improvement plans

The State encourages contractors to identify opportunities to generate lower direct and indirect costs. A continuous improvement process, consisting of various strategies to enhance business efficiencies, may be discussed at the business review meetings or as opportunities for improvement are identified.
6.0 PROPOSAL EVALUATION

6.1 RIGHT TO WAIVE

The Director reserves the right to waive minor irregularities. The Director also reserves the right to waive a mandatory requirement provided that:

(1) the requirement is not mandated by law;

(2) all of the otherwise responsive proposals failed to meet the mandatory requirement; or

(3) in the sole discretion of the Director, the failure to comply with the mandatory requirement does not materially affect the procurement or the State’s interests associated with the procurement.

6.2 EVALUATION CRITERIA

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

- Discounts offered in bid proposal and pricing responses in Attachment 1
- Experience of the bidder
- The bidder’s past performance under similar contracts, including if applicable, the Division’s vendor performance database.
- Depth and breadth of product line including Attachment 2 responses
- Online catalog and eCommerce solutions

6.3 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

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

After reviewing bid proposals, the Buyer or the Evaluation Committee (generically, the “evaluation committee”) may ask one, some or all of the bidders to clarify certain aspects of their proposals. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any deficiencies or material omissions or revise or modify a proposal, except to the extent that correction of apparent clerical mistakes results in a modification.

The bidder may be required to give an oral presentation to the State concerning its bid proposal.

Bidders may not attend the oral presentations of their competitors.

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

After the Evaluation Committee completes its evaluation, it recommends to the Director for award the responsible bidders whose bid proposals, conforming to this RFP, is most advantageous to the State, price and other factors considered. The Evaluation Committee considers and assesses price, technical criteria, and other factors during the evaluation process and makes a recommendation to the Director. The Director may accept, reject or modify the recommendation of the Evaluation Committee. Whether or not there has been a negotiation process as outlined in 6.4 below, the Director reserves the right to negotiate price reductions with the selected vendor.

6.4 BID DISCREPANCIES

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

6.5 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

After evaluating bid proposals, the evaluation committee may enter into negotiations with each bidder in the competitive range, unless there are too many highly rated proposals to evaluate efficiently. In this situation, the State may limit the competitive range to the number of proposals that will permit efficient competition among the most highly rated proposals. The primary purpose of negotiations is to maximize the State’s ability to get the best value, based on the requirements and evaluation criteria set forth in the RFP. Negotiations may involve the identification of significant proposal weaknesses, ambiguities and other deficiencies that could limit a bidder’s award potential, including price. More rounds of negotiations may be held with one bidder in the competitive range than with another. Negotiations will be structured to safeguard information and ensure that all bidders in the competitive range are treated fairly.

When the evaluation committee determines to conclude negotiations, all bidders in the competitive range will be so notified and advised of the time and place for submission of best and final offers. The best and final offer can modify any aspect of the bid proposal, provided mandatory RFP requirements continue to be satisfied and further provided that the revised price proposal is not higher than the original price proposal. Any revised price proposal that is not equal to or lower in price than the original price proposal will be rejected as non-responsive.

Evaluation of the best and final offers will be on the basis of price and the evaluation criteria set forth in the RFP. If, after review of the best and final offers, clarification is required, it may be sought from the bidders. If further negotiation is desired after evaluation of the revised proposals, it will be followed by another BAFO opportunity. The State reserves the right to reassess the competitive range before proceeding with a subsequent round of negotiations and BAFO submissions and to remove from the competitive range any proposal that is no longer considered to be a leading contender for award.

After evaluation of the final BAFO submissions, the evaluation committee will recommend to the Director for award the responsible bidder(s) whose bid proposal(s), conforming to the RFP, is most advantageous to the State, price and other factors considered. The Director may accept, reject or
modify the recommendation of the Evaluation Committee. The Director may negotiate further reductions in price with the selected bidder.

**Negotiations will only be conducted in those circumstances where they are deemed by the State to be in the State’s best interests and to maximize the State’s ability to get the best value. Therefore, bidders are advised to submit their best technical and price proposals in response to this RFP, because the State may, after evaluation, make a contract award based on the content of these initial submissions, without further negotiation with any bidder.**

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 until a Notice of Intent to Award a contract is issued.

**NOTE: Bid prices will not be publicly read at bid opening. Only the name and address of each bidder will be publicly announced at bid opening.**
7.0 CONTRACT AWARD

7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD


In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the negotiation and award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, then-Governor James E. McGreevey issued Executive Order 134 on September 22, 2004. To this end, Executive Order 134 prohibited State departments, agencies and authorities from entering into contracts exceeding $17,500 with individuals or entities that made certain political contributions. Executive Order 134 was superseded by Public Law 2005, c. 51, which was signed into law on March 22, 2005 (“Chapter 51”).

On September 24, 2008, Governor Jon S. Corzine issued Executive Order No. 117 (“E.O. 117”), which is designed to enhance New Jersey’s efforts to protect the integrity of procurement decisions and increase the public’s confidence in government. The Executive Order builds upon the provisions of Chapter 51.

Pursuant to the requirements of this Legislation, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

7.1.1.1 DEFINITIONS

For the purpose of this section, the following shall be defined as follows:

a) Reportable Contributions -- contributions, including in-kind contributions, in excess of $300.00 in the aggregate per election made to or received by a candidate committee, joint candidates committee, or political committee; or per calendar year made to or received by a political party committee, legislative leadership committee, or continuing political committee.

b) Business Entity -- means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. The definition also includes (i) if a business entity is a for-profit corporation, any officer of the corporation and any other person or business entity that owns or controls 10% or more of the stock of the corporation; (ii) if a business entity is a professional corporation, any shareholder or officer; (iii) if a business entity is a general partnership, limited partnership or limited liability partnership, any partner; (iv) if a business entity is a sole proprietorship, the proprietor; (v) if the business entity is any other form of entity organized under the laws of New Jersey or any other state or foreign jurisdiction, any principal, officer or partner thereof; (vi) any subsidiaries directly or indirectly controlled by the business entity; (vii) any political organization organized under 26 U.S.C.A. § 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (viii) with respect to an individual who is included within the definition of “business entity,” that individual’s spouse or civil union partner and any child residing with that person.¹

¹ Contributions made by a spouse, civil union partner or resident child to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides are permitted.
c) **Officer** -- a president, vice-president with senior management responsibility, secretary, treasurer, chief executive officer, or chief financial officer of a corporation or any person routinely performing such functions for a corporation. Please note that officers of non-profit entities are excluded from this definition.

d) **Partner** -- one of two or more natural persons or other entities, including a corporation, who or which are joint owners of and carry on a business for profit, and which business is organized under the laws of this State or any other state or foreign jurisdiction, as a general partnership, limited partnership, limited liability partnership, limited liability company, limited partnership association, or other such form of business organization.

### 7.1.1.2 BREACH OF TERMS OF THE LEGISLATION

It shall be a breach of the terms of the contract for the Business Entity to (i) make or solicit a contribution in violation of the Legislation; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or to any State or county political party committee; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of the Legislation; or (viii) directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

### 7.1.1.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

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

b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by the Legislation have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C. 527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Purchase Bureau website at http://www.state.nj.us/treasury/purchase/forms.shtml#eo134, shall be provided to the intended awardee for completion and submission to the Purchase Bureau with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Purchase Bureau Buyer, the Certification and Disclosure(s) within five (5) business days of the State’s request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.

c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Purchase Bureau website at
http://www.state.nj.us/treasury/purchase/forms.shtml#eo134, shall be provided to the intended awardee with the Notice of Intent to Award.

7.1.1.4 STATE TREASURER REVIEW

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the contractor. If the State Treasurer determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation, the State Treasurer shall disqualify the Business Entity from award of such contract.

7.1.1.5 ADDITIONAL DISCLOSURE REQUIREMENT OF P.L. 2005, C. 271

Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to P.L. 2005, c. 271, section 3 if the contractor receives contracts in excess of $50,000 from a public entity in a calendar year. It is the contractor’s responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

7.1.2 AFFIRMATIVE ACTION

The intended awardee must submit a copy of a New Jersey Certificate of Employee Information, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at:

7.2 FINAL CONTRACT AWARD

Contract awards shall be made with reasonable promptness by written notice to that responsible bidder, whose bid proposal, conforming to this RFP, is most advantageous to the State, price, and other factors considered. Any or all bid proposals may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

The award will be made to the low bidder per brand based on the most favorable discounts and the bidder’s compliance with all other requirements. Pricing for the tools and accessories provided in the bidders’ responses for Attachment 1 will be used to validate the discount(s) offered by a bidder and to determine lowest pricing by brand. Lowest pricing will be determined by averaging the prices of all tools within a brand according to usage. A single award per brand will be made with preference given to the proposal(s) offering the greatest breadth in product coverage as noted in the evaluation methodology which follows. Attachment 1 will also set the maximum price for those tools during the first year of the contract subject to adjustment per sections 1.5.1 and 1.5.1.1 of the RFP.

7.2.1 EVALUATION METHODOLOGY

A bidder will receive a total of five (5) points for each brand for which it is the low cost, responsive bidder. A bidder will receive an additional two (2) points for each accepted additional brand it proposes and for which it is the low cost, responsive bidder. Acceptance of an alternative brand will
be determined by usage from alternative contract sources and agency input. The following table provides an example of the evaluation methodology:

<table>
<thead>
<tr>
<th></th>
<th>VENDOR A</th>
<th>VENDOR B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of low bid brands</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Points</td>
<td>25</td>
<td>20</td>
</tr>
<tr>
<td>Number of add’l brands</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Points</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>Total Points</td>
<td>33</td>
<td>36</td>
</tr>
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In the example, vendor B would receive the award because it had more breadth in its bid offerings.

7.3 INSURANCE CERTIFICATES

The contractor shall provide the State with current certificates of insurance for all coverages required by the terms of this contract, naming the State as an Additional Insured.
8.0 CONTRACT ADMINISTRATION

8.1 CONTRACT MANAGER

The State Contract Manager is the State employee responsible for the overall management and administration of the contract.

The State Contract Manager for this project will be identified at the time of execution of contract. At that time, the contractor will be provided with the State Contract Manager’s name, department, division, agency, address, telephone number, fax phone number, and email address.

8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

For an agency contract where only one State office uses the contract, the State Contract Manager will be responsible for engaging the contractor, assuring that Purchase Orders are issued to the contractor, directing the contractor to perform the work of the contract, approving the deliverables and approving payment vouchers. The State Contract Manager is the person that the contractor will contact after the contract is executed for answers to any questions and concerns about any aspect of the contract. The State Contract Manager is responsible for coordinating the use and resolving minor disputes between the contractor and any component part of the State Contract Manager’s Department.

If the contract has multiple users, then the State Contract Manager shall be the central coordinator of the use of the contract for all Using Agencies, while other State employees engage and pay the contractor. All persons and agencies that use the contract must notify and coordinate the use of the contract with the State Contract Manager.

8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER

Any contract user that is unable to resolve disputes with a contractor shall refer those disputes to the State Contract Manager for resolution. Any questions related to performance of the work of the contract by contract users shall be directed to the State Contract Manager. The contractor may contact the State Contract Manager if the contractor can not resolve a dispute with contract users.
<table>
<thead>
<tr>
<th>MANUFACTURER</th>
<th>TOOL TYPE/DESCRIPTION</th>
<th>DISCOUNT PERCENTAGE</th>
<th>PRICELIST TYPE/DATE</th>
<th>NOTES</th>
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</tbody>
</table>

BIDDER’S NAME: _______________________

SIGNATURE: _________________________
Attachment 3

Technical Compliance

This attachment requires the bidder to complete responses which affirm the bidder’s ability and willingness to comply with requirements of the RFP as found in the sections referenced.

**Section 1.5.1 Volume Discounts:** Bidder to indicate below any additional discounts it will offer for one time order/delivery volume purchases over and above the original discounts already offered in its bid proposal. (Note: these are not pricing/quantity break points. Pricing/quantity break points are not permissible):

__________________________________________________________________________________
__________________________________________________________________________________

**Section 3.3 Delivery:** The bidder will comply with the State’s delivery requirements:

Yes: __________  No: __________

**Section 3.4 Service Criteria:** The bidder will comply with the State’s service requirements for delivery throughout all areas of the State:

Yes: __________  No: __________

The bidder should indicate below its distribution network in the space below and which bidder location(s) would deliver to State agencies and Cooperative Purchasing participants. If necessary, a separate sheet may be attached.

__________________________________________________________________________________
__________________________________________________________________________________
__________________________________________________________________________________

**Section 3.6 eCommerce:** Contractor agrees to the State’s website requirements and agrees to meet the eCommerce requirements at no additional cost to the State as part of its contract obligations:

Yes: __________  No: __________

The bidder shall provide at least one (1) link in the space below as an example of current contract-specific website(s) it provides to its customers:
Section 4.4.3.1 Manufacturer’s Price List/Catalog: The bidder to indicate below that it has attached the most current, dated manufacturer’s price list or its most current, dated catalog for pricing reference:

Mfg’s Price List with date/number: ________________________________________________________

Catalog with date/number: ______________________________________________________________

Section 4.4.3.2 State-Specific Web Page: The bidder shall attach a layout of its proposed State-specific web page or provide a link to the proposed web page below:

____________________________________________________________________________________

Bidder’s Name: ____________________
Bidder’s Signature: _________________