



School Employees Health Benefits Program Medical Plan  
 Request For Proposal: Garden State Health Plan  
**Administrative Requirements Document**

Event	Date	Time
Vendor's {Bidder's} Electronic Question Due Date	June 30, 2021	2:00 PM
Quote Submission Date	July 20, 2021	2:00 PM
Contract Award Date	August 25, 2021	TBD
Coverage Effective Date	January 1, 2022	

Dates are subject to change. All times contained in the Request For Proposal refer to Eastern Time. All changes will be reflected in Bid Amendments to the Request For Proposal posted on [www.nj.gov/treasury/pensions](http://www.nj.gov/treasury/pensions)

Request For Proposal Issued By

State of New Jersey  
 Department of the Treasury  
 Division of Pensions and Benefits  
 Trenton, New Jersey 08625-0230

Using Agency/Agencies

State of New Jersey  
 Department of the Treasury  
 Division of Pensions and Benefits

Date: 07/13/2021

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## **1.0 INFORMATION FOR VENDORS {BIDDERS}**

**NOTICE: *The Vendor {Bidder} is advised to thoroughly read all sections, as many have been revised, and follow all instructions contained in the RFP documents.***

Please be advised that in accordance with P.L. 2018, c. 9, also known as the Diane B. Allen Equal Pay Act, which was signed into law by Governor Phil Murphy on April 24, 2018, a Vendor {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>.

Vendors {Bidders} interested in the current Blanket P.O. specifications and pricing information may review the current Blanket P.O. (Enter T2846) at [www.njstart.gov](http://www.njstart.gov) by following these steps:

Go to: [www.njstart.gov](http://www.njstart.gov)  
Select “Contract & Bid Search”  
Select “Contracts/Blankets”  
Under “Contract/Blanket Description” type in (Enter T2846), Click “Find It”  
The current Blanket P.O.’s will appear under “Results”.

Vendors {Bidders} are cautioned that this RFP presents a significant departure from the requested scope of services covered in the last procurement of medical plan services in 2019 and this new RFP addresses current requirements for a subset of the total population.

**By submitting a proposal to the State of New Jersey for the Garden State Health Plan identified in this RFP, Vendor {Contractor} is agreeing to abide by and administer all the Administrative Requirements outlined within this Exhibit.**

**Vendor {Contractor} must affirmatively confirm via written statement to be included with the submitted Quote, Vendor {Contractor} agrees to all parameters set forth in the Administrative Requirements Exhibits. Deviations will not be accepted and may only be considered if mutually agreed upon during the contracting phase as an enhancement to current protocols.**

### **1.1 KEY EVENTS**

#### **1.1.1 ELECTRONIC QUESTION AND ANSWER PERIOD**

The Division will electronically accept questions and inquiries from all potential Vendors {Bidders} via e-mail to [HBPolicyPlanning@treas.nj.gov](mailto:HBPolicyPlanning@treas.nj.gov).

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

The cut-off date for electronic questions and inquiries relating to this RFP is indicated on the cover sheet of both the Scope of Work/Technical Capabilities and Administrative Requirements documents. In the event that questions are posed by Vendors {Bidders}, answers to such questions will be issued by Bid Amendment. Any Bid Amendment to this RFP will become part of this RFP and part of any Blanket P.O. awarded as a result of this RFP. Bid Amendments {Addenda} to this RFP, if any, will be posted on the Division of Pensions and Benefits Website.

#### 1.1.1.1 EXCEPTIONS TO THE STATE OF NJ STANDARD TERMS AND CONDITIONS (SSTC)

**Questions regarding the State of New Jersey Standard Terms and Conditions (SSTC) and exceptions to mandatory requirements must be posed during this Electronic Question and Answer period and shall contain the Vendor's {Bidder's} suggested changes and the reason(s) for the suggested changes.**

#### 1.1.2 SUBMISSION OF QUOTES

In order to be considered for award, the Quote must be received by the Division at the appropriate location by the required time.

Vendors {Bidders} shall submit their Quote to:

Andrew Lawson  
Department of the Treasury  
Division of Pensions and Benefits  
State of New Jersey  
50 West State St.  
P.O. Box 295  
Trenton, NJ 08625-0295

**QUOTES NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING ARE INDICATED ON THE COVER SHEETS AND ON THE DIVISION OF PENSIONS AND BENEFITS WEBSITE.**

**IF THE QUOTE OPENING DEADLINE HAS BEEN REVISED, THE NEW QUOTE OPENING DEADLINE SHALL BE SHOWN ON THE POSTED BID AMENDMENT AND ON THE [DIVISION OF PENSIONS AND BENEFITS WEBSITE.](#)**

#### 1.1.3 PRE-QUOTE DOCUMENT REVIEW

Each Vendor {Bidder} will be required to submit a signed copy of the Confidentiality/Non-Disclosure Agreement attached to this RFP, signed by an officer or other authorized representative of the Vendor {Bidder}, included with this RFP. This signed agreement is required in order for the Vendor {Bidder} to receive confidential files outlined below. This information will enable the Vendor {Bidder} to complete the financial aspects of its Quote.

Vendors {Bidders} may obtain the CD in person or via mail or delivery service. Vendors {Bidders} that opt for the mail/delivery service should send the executed Confidentiality/Non-Disclosure Agreement, along with a self-addressed stamped envelope to:

Andrew Lawson  
Division of Pensions and Benefits  
Department of the Treasury  
State of New Jersey  
50 West State St.  
P.O. Box 295  
Trenton, NJ 08625-0295

Upon receipt of the original, executed Confidentiality/Non-Disclosure Agreement, the SEHBP will provide the CD as described above. Therefore, in addition to the signed original Confidentiality/Non-Disclosure Agreement, Vendors {Bidders} must also include a postage-paid return envelope for overnight delivery. The original signed Confidentiality/Non-Disclosure Agreement must be submitted in advance of the Electronic Question Due Date (see Cover Page) to allow enough time for the State to return the CD and the Vendors {Bidders} to review the data and submit questions, if necessary.

Vendor {Bidders} who opt for in-person CD pick-up shall submit an e-mail to [Andrew.Lawson@treas.nj.gov](mailto:Andrew.Lawson@treas.nj.gov) to set up a pick-up time. All in-person pick-ups shall occur during regular business hours at the Division of Pensions and Benefits.

Materials provided to the Vendor {Bidders} on the CD upon receipt of a signed Non-Disclosure Agreement will include the following:

1. CD Attachment: Audit File Layout, Exhibit 1;
2. CD Attachment: Census File (Active Members), Exhibit 2;
3. CD Attachment: Census File (Retiree Members – Pre-65), Exhibit 3;
4. CD Attachment: Eligibility File Layout (HIPAA 834), Exhibit 4;
5. CD Attachment: Daily Return File Transmission Layout (HIPAA 999), Exhibit 5;
6. CD Attachment: Employer File Layout, Exhibit 6;
7. CD Attachment: Benefit Plan Design, Exhibit 7;
8. CD Attachment: Experience Data (Medical and Rx), Exhibit 8;
9. CD Attachment: Chart of Time Limits & Appeals, Exhibit 9;
10. CD Attachment: Network Access Workbook, Attachment A;
11. CD Attachment: Discount Workbook, Attachment B;
12. CD Attachment: Questionnaire, Attachment C;
13. CD Attachment: Performance Standards & Damages, Attachment D;
14. CD Attachment: Price Sheet, Attachment E

## **1.2** **ADDITIONAL INFORMATION**

### **1.2.1** **BID AMENDMENTS: REVISIONS TO THIS RFP**

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

There are no designated dates for release of Bid Amendments. Those Vendors {Bidders} who provide notice of intent to bid by submitting the Non-Disclosure Agreement should receive notification of any Bid Amendment(s). If a Vendor {Bidder} is not on the list to receive notifications related to this RFP, any Bid Amendments will be viewable on the [Division of Pensions and Benefits website](#).

It is the sole responsibility of the Vendor {Bidder} to be knowledgeable of all Bid Amendments related to this procurement. An interested Vendor {Bidder} should check the Division of Pensions and Benefits website on a daily basis to ensure review of the most updated information.

### **1.2.2 VENDOR {BIDDER} RESPONSIBILITY**

The Vendor {Bidder} assumes sole responsibility for the complete effort required in submitting a Quote in response to this RFP. No special consideration will be given after Quotes are opened because of a Vendor's {Bidder's} failure to be knowledgeable as to all the requirements of this RFP.

### **1.2.3 COST LIABILITY**

The State assumes no responsibility and bears no liability for costs incurred by a Vendor {Bidder} in the preparation and submittal of a Quote in response to this RFP.

### **1.2.4 CONTENTS OF QUOTE**

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.

After the opening of sealed Quotes, all information submitted by a Vendor {Bidder} in response to an RFP is considered public information notwithstanding any disclaimers to the contrary submitted by a Vendor {Bidder}. Proprietary and confidential information may be exempt from public disclosure by OPRA and/or the common law. When the RFP contains a negotiation component, the Quote will not be subject to public disclosure until a notice of intent to award a Blanket P.O. is announced.

As part of its Quote, a Vendor {Bidder} may designate any data or materials it asserts are exempt from public disclosure under OPRA and/or the common law, explaining the basis for such assertion. Vendor {Bidder} must provide a detailed statement clearly identifying those sections of the Quote that it claims are exempt from production, and the legal and factual basis that supports said exemption(s) as a matter of law. Please include a redacted copy of the Quote indicating the sections identified as confidential. **The State will not honor any attempts by a Vendor {Bidder} to designate its entire Quote as proprietary, confidential and/or to claim copyright protection for its entire Quote.**

The State reserves the right to make the determination as to what is proprietary or confidential and will advise the Vendor {Bidder} accordingly. Any proprietary and/or confidential information in a Quote will be redacted by the State. Copyright law does not prohibit access to a record which is otherwise available under OPRA.

In the event of any challenge to the Vendor's {Bidder's} assertion of confidentiality with which the State does not concur, the Vendor {Bidder} shall be solely responsible for defending its



designation, but in doing so, all costs and expenses associated therewith shall be the responsibility of the Vendor {Bidder}. The State assumes no such responsibility or liability.

A Vendor {Bidder} shall not designate any price lists and/or catalogs submitted as exempt from public disclosure as the same must be accessible to State Using Agencies and Cooperative Purchasing Program participants (if the RFP has been extended to these participants) and thus must be made public to allow all eligible purchasing entities access to the pricing information.

In order not to delay consideration of the Quote or the State's response to a request for documents, the State requires that Vendor {Bidder} respond to any request regarding confidentiality markings within the timeframe designated in the State's correspondence regarding confidentiality. If no response is received by the designated date and time, the State will be permitted to release a copy of the Quote with the State making the determination regarding what may be proprietary or confidential.

#### **1.2.5 ANNOUNCEMENT OF QUOTE INFORMATION**

On the date and time Quotes are due under the RFP, all information concerning the Quotes submitted may be publicly announced and shall be available for inspection and copying except as noted below:

- A. Information appropriately designated as proprietary and/or confidential shall not be available for inspection and copying; and
- B. Where negotiation is contemplated, only the names and addresses of the Vendors {Bidders} submitting Quotes will be announced, and the contents of the Quotes shall not be available for inspection and copying until the Notice of Intent to Award is issued.

#### **1.2.6 PRICE ALTERATION IN QUOTES**

Any price changes including handwritten revisions or "white-outs" must be initialed. Failure to initial price changes shall preclude a Blanket P.O. award from being made to the Vendor {Bidder}.

#### **1.2.7 QUOTE ERRORS AND WITHDRAWALS**

All Quote withdrawal requests must include the RFP name and the final Quote submission date and be sent to the following address:

Andrew Lawson  
Andrew.Lawson@treas.nj.gov  
Division of Pensions and Benefits  
Department of the Treasury  
State of New Jersey  
50 West State St.  
P.O. Box 295  
Trenton, NJ 08625-0295

#### **1.2.7.1 QUOTE WITHDRAWAL PRIOR TO QUOTE OPENING**

A Vendor {Bidder} may withdraw its Quote submission prior to the Quote opening. The Vendor {Bidder} may submit a revised Quote as long as the Quote is received prior to the announced date and time for Quote submission.

#### **1.2.7.2 QUOTE WITHDRAWAL AFTER QUOTE OPENING, BUT PRIOR TO BLANKET P.O. AWARD**

If, after the Quote opening, but before Blanket P.O. award, a Vendor {Bidder} discovers an error in its Quote, the Vendor {Bidder} may make a written request to the Division to withdraw its Quote from consideration for award. If the Vendor's {Bidder's} request to withdraw is made in good faith, and the State will not be significantly prejudiced by granting the withdrawal of the Quote beyond the loss of the benefit of the bargain to the State of the withdrawing Vendor's {Bidder's} offer, the request shall be granted. Evidence of the Vendor's {Bidder's} good faith in making this request can be demonstrated by one (1) or more of the following factors: A mistake is so significant that to enforce the Blanket P.O. resulting from the Quote would be unconscionable; that the mistake relates to a material feature or term of the Blanket P.O.; and that the mistake occurred notwithstanding the Vendor's {Bidder's} exercise of reasonable care. After Quote opening, while pursuant to the provisions of this section a Vendor {Bidder} may request to withdraw its Quote and the Director may in his/her discretion allow said Vendor {Bidder} to withdraw it, the Division also may take notice of repeated or unusual requests to withdraw by a Vendor {Bidder} and take those prior requests to withdraw into consideration when evaluating the Vendor's {Bidder's} future Quotes.

If during a Quote evaluation process, an obvious pricing error made by a potential Blanket P.O. awardee is found, the Director or his/her designee shall issue written notice to the Vendor {Bidder}. The Vendor {Bidder} will have up to five (5) business days after receipt of the notice to confirm the error in its pricing and agree to provide services without any change to their proposal. If the Vendor {Bidder} fails to respond, its Quote shall be considered withdrawn, and no further consideration shall be given to it.

#### **1.2.8 JOINT VENTURE**

If a Joint Venture is submitting a Quote, the agreement between the parties relating to such Joint Venture should be submitted with the Joint Venture's Quote. Authorized signatories from each party comprising the Joint Venture must sign the Offer and Acceptance Page. Each party to the Joint Venture must individually comply with all the forms and certification requirements in Sections 4.4.1 and 4.4.2 of this RFP.

#### **1.2.9 RECIPROCITY FOR JURISDICTIONAL VENDOR {BIDDER} PREFERENCE**

In accordance with N.J.S.A. 52:32-1.4, the State of New Jersey will invoke reciprocal action against an out-of-State Vendor {Bidder} whose state or locality maintains a preference practice for its in-state Vendors {Bidders}. The State of New Jersey will use the annual surveys compiled by the Council of State Governments, National Association of State Procurement Officials, or the National Institute of Governmental Purchasing or a State's statutes and regulations to identify States having preference laws, regulations, or practices and to invoke reciprocal actions. The State of New Jersey may obtain additional information as it deems appropriate to supplement the stated survey information.

A Vendor {Bidder} may submit information related to preference practices enacted for a State or Local entity outside the State of New Jersey. This information may be submitted in writing as part of the Quote response, including name of the locality having the preference practice, as well as identification of the county and state, and should include a copy of the appropriate documentation, i.e., resolution, regulation, law, notice to Vendor {Bidder}, etc. It is the responsibility of the Vendor {Bidder} to provide documentation with the Quote or submit it to the Director within five (5) business days after the deadline for Quote submission. Written evidence for a specific procurement that is not provided to the Director within five (5) business days of the public Quote submission date may not be considered in the evaluation of that procurement but may be retained and considered in the evaluation of subsequent procurements.

## **2.0 DEFINITIONS**

### **2.1 GENERAL DEFINITIONS**

The following definitions will be part of any Blanket P.O. awarded or order placed as a result of this RFP.

**All-Inclusive Hourly Rate** – An hourly rate comprised of all direct and indirect costs including, but not limited to: labor costs, overhead, fee or profit, clerical support, travel expenses, per diem, safety equipment, materials, supplies, managerial support and all documents, forms, and reproductions thereof. This rate also includes portal-to-portal expenses as well as per diem expenses such as food.

**Best and Final Offer or BAFO** – Pricing timely submitted by a Vendor {Bidder} upon invitation by the Division after Quote opening, with or without prior discussion or negotiation.

**Bid Amendment** – Written clarification or revision to this RFP issued by the Division. Bid Amendments, if any, will be issued prior to Quote opening.

**Business Day** – Any weekday, excluding Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

**Calendar Day** – Any day, including Saturdays, Sundays, State legal holidays, and State-mandated closings unless otherwise indicated.

**Change Order** – An amendment, alteration, or modification of the terms of a Blanket P.O. between the State and the Vendor(s) {Contractor(s)}. A Change Order is not effective until it is signed and approved in writing.

**Cooperative Purchasing Program** – The Division's intrastate program that provides procurement-related assistance to New Jersey local governmental entities and boards of education, State and county colleges and other public entities having statutory authority to utilize select State Blanket P.O.s issued by the Division, pursuant to the provisions of N.J.S.A. 52:25-16.1 et seq.

**Days After Receipt of Order (ARO)** – The number of calendar days 'After Receipt of Order' in which the using agency will receive the ordered materials and/or services.

**Director** – Division of Pension and Benefits, Department of the Treasury

**Discount** – The standard price reduction applied by the Vendor {Bidder} to all items.

**Division** – The Division of Pension and Benefits.

**Evaluation Committee** – A committee established, or Division staff member assigned by the Director to review and evaluate Quotes submitted in response to this RFP and recommend a Blanket P.O. award to the Director.

**Firm Fixed Price** – A price that is all-inclusive of direct cost and indirect costs, including, but not limited to, direct labor costs, overhead, fee or profit, clerical support, equipment, materials, supplies, managerial (administrative) support, all documents, reports, forms, travel, reproduction and any other costs.

**Joint Venture** – A business undertaking by two (2) or more entities to share risk and responsibility for a specific project.

**Master Blanket Purchase Order (Blanket P.O.)** – The Blanket P.O. consists of the State of NJ Standard Terms and Conditions (SSTC), the RFP, the responsive Quote submitted by a responsible Vendor {Bidder} as accepted by the State, the notice of award, any Best and Final Offer, any subsequent written document memorializing the agreement, any modifications to any of these documents approved by the State and any attachments, Bid Amendment or other supporting documents, or post-award documents including Change Orders agreed to by the State and the Vendor {Contractor}, in writing.

**May** – Denotes that which is permissible or recommended, not mandatory.

**Must** – Denotes that which is a mandatory requirement.

**No Bid** – The Vendor {Bidder} is not submitting a price Quote for an item on a price line.

**No Charge** – The Vendor {Bidder} will supply an item on a price line free of charge.

**Project** – The undertakings or services that are the subject of this RFP.

**Quote** – Vendor's {Bidder's} timely response to the RFP including, but not limited to, technical Quote, price Quote, and any licenses, forms, certifications, or other documentation required by the RFP.

**Request For Proposal (RFP)** – This series of documents, which establish the bidding and Blanket P.O. requirements and solicits Quotes to meet the needs of the Using Agencies as identified herein, and includes the Request For Proposal, State of NJ Standard Terms and Conditions (SSTC), State-Supplied Price Sheet, attachments, and Bid Amendments.

**Retainage** – The amount withheld from the Vendor {Contractor} payment that is retained and subsequently released upon satisfactory completion of performance milestones by the Vendor {Contractor}.

**Revision** – A response to a BAFO request or a requested clarification of the Vendors {Bidders} Quote.

**Shall** – Denotes that which is a mandatory requirement.

**Should** – Denotes that which is permissible or recommended, not mandatory.

**Small Business** – Pursuant to N.J.A.C. 17:13-1.2, "small business" means a business that meets the requirements and definitions of "small business" and has applied for and been approved by the New Jersey Division of Revenue and Enterprise Services, Small Business Registration and M/WBE Certification Services Unit as (i) independently owned and operated, (ii) incorporated or registered in and has its principal place of business in the State of New Jersey; (iii) has 100 or

fewer full-time employees; and has gross revenues falling in one (1) of the three (3) following categories: For goods and services - (A) 0 to \$500,000 (Category I); (B) \$500,001 to \$5,000,000 (Category II); and (C) \$5,000,001 to \$12,000,000, or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher (Category III); For construction services: (A) 0 to \$3,000,000 (Category IV); (B) gross revenues that do not exceed 50 percent of the applicable annual revenue standards established at 13 CFR 121.201 (Category V); and (C) gross revenues that do not exceed the applicable annual revenue standards established at CFR 121.201, (Category VI).

**State** – The State of New Jersey.

**State Contract Manager or SCM** – The individual, as set forth in Section 8, responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements contained in the scope of this RFP. The SCM cannot direct or approve a Change Order.

**State-Supplied Price Sheet** – The bidding document created by the State and attached to this RFP on which the Vendor {Bidder} submits its Quote pricing as is referenced and described in RFP Section 4.4.5.

**Subtasks** – Detailed activities that comprise the actual performance of a task.

**Subcontractor** – An entity having an arrangement with a Vendor {Contractor}, whereby the Vendor {Contractor} uses the products and/or services of that entity to fulfill some of its obligations under its State Blanket P.O., while retaining full responsibility for the performance of all [the Vendor's {Contractor's}] obligations under the Blanket P.O., including payment to the Subcontractor. The Subcontractor has no legal relationship with the State, only with the Vendor {Contractor}.

**Task** – A discrete unit of work to be performed.

**Unit Cost** – All-inclusive, firm fixed price charged by the Vendor {Bidder} for a single unit identified on a price line.

**Vendor {Bidder}** – An entity offering a Quote in response to the Division's RFP.

**Vendor {Contractor}** – The Vendor {Bidder} awarded a Blanket P.O. resulting from this RFP.

## **2.2 BLANKET P.O.-SPECIFIC DEFINITIONS/ACRONYMS**

**Active Employee** – A Member of the State, Local Government, or Local Education group that is not a Retiree.

**Accountable Care Organization (ACO)** – ACO's are groups of doctors, hospitals, and other health care providers, who come together voluntarily to give coordinated high-quality care to their patients.

**Adjudication** – The process by which the Vendor {Contractor} reviews health benefits Claims, determining the eligibility of the claimant and the services and the applicable amount of coverage.

**Administrative Services Only Fee (ASO Fee, Administrative Fee)** – Fee for services paid by the State to the Vendor {Contractor}. The ASO Fee is the only compensation due the Vendor

{Contractor} under the Blanket P.O., unless otherwise mutually agreed to by the Vendor {Contractor} and the SCM (e.g., Recovery Services Fees). The Vendor's {Contractor's} monthly compensation is a function of the Vendor's {Contractor's} ASO Fee multiplied by the number of participating public Subscribers enrolled in a medical plan with the Vendor {Contractor} during the applicable month.

**Advocates** – Qualified health care experts who assist Members with various aspects of their health plan including but not limited to navigating the health system for the Member and the Member's family, as well as answering questions about the health plan at issue.

**ARC** – Identification of Members in State enrollment files by employment status as either Active, Retired, or COBRA. These categories are listed by the first letter of each category (A, R or C). The State uses the "ARC TYPE" designation to demarcate a Member's employment status on the file.

**Balanced Budget Act (BBA) of 1997** – An omnibus legislative package enacted by the United States Congress, using the budget reconciliation process, and designed to balance the federal budget by 2002. In order to reduce Medicare spending, the Act reduced payments to health service providers such as hospitals, doctors, and nurse practitioners. Some of those changes to payments were reversed by subsequent legislation in 1999 and 2000.

**Behavioral Health** – A Member's condition with regard to their emotions, behaviors, and biology (including common health conditions such as anxiety, obesity, heart disease, diabetes) and the way such conditions connect to overall well-being.

**Benefit Effective Date** – Date on which the Member is eligible for services provided by the Vendor {Contractor}. The Benefit Effective Date for each Member is included in the daily Plan Eligibility File.

**Birthday Rule** – The plan covering the parent whose birthday falls earlier in the year will have primary responsibility for the coverage of the dependent children. If both parents have the same birthday, the plan covering the parent for the longer period of time will be primary.

**Blanket P.O. Effective Date** – The commencement date of the Blanket P.O.

**Capitation** – Method of paying for healthcare services on the basis of the number of patients who are covered for a specific service over a specified period of time rather than the cost or number of services that are actually provided.

**Case Management (CM)** – A collaborative process of assessment, planning, facilitation, care coordination, evaluation, and advocacy for options and services to meet an individual's and family's comprehensive health needs through communication and available resources to promote quality, cost-effective outcomes.

**Care Management** - A set of activities intended to improve patient care and reduce the need for medical services by enhancing coordination of care, eliminate duplication, and helping patients and caregivers more effectively manage health conditions.

**Chapter 330, P.L. 1997** – A law that provides health benefits under the SHBP or SEHBP to police officers and firefighters of a Local Employer who retire after 25 years of service, or on a disability,

and who do not receive any payment towards Retiree health coverage from their employers. If eligible, the State will pay 80 percent of the cost of the least expensive SHBP/SEHBP plan offered and the Retiree then pays the remainder for the plan selected. A qualified Retiree to whom Chapter 330, P.L. 1997 applies may enroll at the time of retirement or when becoming eligible for Medicare.

**Chapter 375** – A reference to the Public Laws of 2005 enacted January 12, 2006, and effective May 12, 2006, to permit coverage of an adult child of an Employee or Retiree under certain conditions. The legislation requires the SHBP to provide for an election of coverage by a child, following the termination of their dependent coverage due to age, until their 31<sup>st</sup> birthday. After the enactment of the SEHBP in 2008, this provision for an election of continued coverage for certain adult children of an Employee or Retiree also applies to SEHBP Members.

**Chapter 78** – Public Law 2011, Chapter 78 created the State Health Benefits Plan Design Committee and the School Employees' Health Benefits Plan Design Committee (the Plan Design Committees).

**Chronic and Complex Care Management (CCM)** – A set of activities designed to more effectively assist patients and their caregivers in managing medical conditions and co-occurring psychosocial factors. The goal of CCM is to improve the patient's health status and reduce the need for hospital care.

**Claim** – An itemized statement of services and costs from a health care Provider or facility submitted for payment.

**Claim Fiduciary** – A named fiduciary having the authority and responsibility to adjudicate Claims in accordance with the provisions of the plan. In the event of a Member appeal for review of a denied Claim, the Claim Fiduciary makes the final determination as to whether the Claim is covered. Fiduciary responsibility will be retained by the State.

**Claim Record** – All documents, records, reports, data, including data recorded by the Vendor {Contractor} in its data processing systems, directly related to the receipt, processing and payment of Claims and all Claim histories.

**Centers of Excellence (COE)** - Tight network of quality surgeons in their specialty who agree to pre-negotiated bundled payments for pre-planned, non-emergent, non-elective surgeries (I.E.- knee, hip, spine, cardiac, etc.)

**Centers for Medicare & Medicaid Services (CMS)** – A part of the U.S. Department of Health and Human Services. CMS oversees many federal health care programs, including those that involve health information technology such as the meaningful use incentive program for electronic health records (EHR).

**CMS Reimbursement/Fee Schedule** – A complete listing of fees used by Medicare to pay doctors or other providers/suppliers. This comprehensive listing of fee maximums is used to reimburse a physician and/or other providers on a fee-for-service basis. CMS develops fee schedules for physicians, ambulance services, clinical laboratory services, durable medical equipment, prosthetics, orthotics, and supplies.



**Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)** – A Federal law that gives employees and their eligible dependents the opportunity to remain in their employer’s group coverage when they would otherwise lose coverage.

**Coinsurance** – A percentage of the total cost paid by the Member.

**Commissions** – See “State Health Benefits Commission” and “School Employees’ Health Benefits Commission.”

**Concierge Claim Management Services** – Services designed to provide individual case level services, which ensure that the correct and/or appropriate doctor, treatment and care are provided at the ideal time which can greatly improve health outcomes.

**Coordination of Benefits (COB)** – The process by which a health insurance company determines if it should be the primary or secondary payer of medical Claims for a patient who has coverage from more than one health insurance policy, and ensures that the payments of both plans do not exceed 100% of the covered charges.

**Copayment** – Fixed dollar amount paid by the Member to the Participating Provider.

**Cross-Plan Offsetting** - A practice of recouping alleged overpayments to a provider for services rendered to patients in an employer-sponsored health plan by withholding payments due to the same provider for services rendered to patients in a different employer-sponsored health plan.

**Crisis Intervention – Psychological** care used to offer immediate, short-term help to individuals who experience an event that produces emotional, mental, physical, and behavioral distress or problems with the intent of minimizing potential long-term psychological trauma.

**Current Procedural Terminology (CPT)** - Medical code set that is used to report medical, surgical, and diagnostic procedures and services to entities such as physicians, health insurance companies and accreditation organizations. CPT codes are used in conjunction with ICD-9-CM or ICD-10-CM numerical diagnostic coding during the electronic medical billing process.

**Dependent(s)** –Dependents include an Employee’s or Retiree’s spouse, partner in a civil union couple, and the Employees’/Retirees’ children under the age of 26 years. For State Employees and Retirees, Dependents also include an Employee’s domestic partner as defined in section 3 of P.L. 2003, c. 246 (N.J.S.A. 26:8A-3). In addition, a Local Employer that has elected to participate in the SHBP/SEHBP may, by resolution, elect to include domestic partners as eligible Dependents, but is not required by statute to provide such coverage. Children include stepchildren, legally adopted children and children placed by the Division of Child Protection and Permanency in the Department of Children and Families, provided they are reported for coverage and are wholly dependent upon the Employee for support and maintenance. Covered children attaining age 26 who are not capable of self-support due to mental illness or incapacity or a physical disability may also qualify for continuation of coverage. A person enlisting or inducted into military service is not considered a Dependent during the military service. Note: The DPB classifies adult children enrolled in the SHBP/SEHBP under the provisions of Chapter 375 as Subscribers, not as Dependents.

**Diagnosis Related Groups (DRG)** – DRGs are assigned by a “grouper” program based on ICD code diagnoses, procedures, age, sex, discharge status, and the presence of complications of comorbidities. DRGs have been used by CMS since 1982 to determine how much Medicare pays

a hospital for each admission, under the premise that patients within each DRG are clinically similar and are expected to use the same level of services. There are approximately 760 DRGs recognized by CMS. For admissions paid on other bases, the grouper programs consolidate all Claims for an admission and assign them to a DRG so we can compare payments for a uniformly defined unit of service: the entire hospital admission.

**Digital Navigation** – Mobile technological support for Members to access care and appropriate treatment programs, which offer the potential to promote better health and help people to achieve a healthier lifestyle.

**Direct Contracting** – When employers with a self-funded contract negotiate with providers other than their current carrier models-lowering healthcare costs through improved discounts from the carrier, improved quality and member experience, and or a collaborative approach with providers to value-based care.

**Direct Primary Care Medical Home (DPCMH)** – A primary care practice that assumes contractual responsibility for providing comprehensive primary care services, including preventive care, episodic sick care, basic urgent care, disease management medication management, basic procedures, health and wellness coaching, immunizations, and lab/draw collections, as well as coordination of comprehensive specialist, hospital, and outpatient services.

**Discount** – The difference between the list rates charged for health care services by the Provider and the contractually determined reimbursement rate between the Provider and the Vendor {Contractor}. These discounts may differ based on plan type, as well as specific Vendor {Contractor} arrangements.

**Disease Management**– Programs developed to identify and categorize patients (especially those with chronic conditions) and to direct these patients towards a specific treatment protocol.

**Division of Pensions and Benefits (DPB)** – The using agency that has issued this RFP.

**Early Retiree** – A Member of the State or Local Employer group (which includes Local Government and Local Education) that is retired, under 65 years of age, and not yet eligible to enroll in Medicare.

**Employee** – SHBP/SEHBP eligible individual of a participating State or Local Employer, including a Local Government or Local Education Employer.

**Evidence-Based Guidelines** – Guidelines which ensure that individual clinical expertise and the best available external clinical research is integrated into the decision-making process for patient care.

**Explanation of Benefits (EOB)** – A statement sent by a health insurance company to covered individuals explaining what medical treatments and/or services were paid for on their behalf.

**External Independent Review Organization (IRO)** – A review of a plan's decision to deny coverage for, or payment of, a service by an independent third-party not related to the plan.

**FAIR Health** - A non-profit database to be utilized by the Vendor {Contractor} to identify the reasonable and customary allowance for out-of-network services.

**Half-MDC** – Refers to surgical or medical aggregations of DRGs within any MDC. Within each MDC there are surgical and non-surgical (Medical) admissions (e.g. heart failure, but no procedure).

**Health Care and Education Reconciliation Act (“HCER Act”)** – A law that was enacted by the 111th United States Congress, by means of the reconciliation process, in order to amend the Patient Protection and Affordable Care Act. The HCER Act is divided into two titles, one addressing health care reform and the other addressing student loan reform.

**Health Insurance Portability and Accountability Act of 1996, 42 U.S.C.A. 1301 et seq. (HIPAA)** – The law developed by the Federal Department of Health and Human Services that provides uniform Federal privacy protection standards for consumers by protecting patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers. The law also provides consumers with access to their medical records and more control over how their personal health information is used and disclosed.

**Health Maintenance Organization (HMO)** – Managed healthcare system that has participating physicians, and facilities that provide comprehensive medical services.

**Health Savings Account** – Tax-advantaged spending account to which both the employer and employee can contribute funds that can be used to pay for employee medical expenses not covered by the health plan, available to Members in federally qualified HDHPs only.

**High-Deductible Health Plan (HDHP)** – A healthcare benefit arrangement that requires that enrolled employees and retirees (and their dependents) satisfy a deductible that is typically much larger than other plan option deductibles prior to the plan paying any benefits. The HDHP may include a Health Savings Account (if it is determined to be a federally-qualified HDHP) to which the plan sponsor and/or the employee may contribute funds on a pre-tax basis that can be used to pay for medical eligible expenses, both prior to and after satisfying the deductible.

Health Insurance Portability and Accountability Act of 1996 (HIPAA) – Legislation that led to the Privacy Rule standards meant to address the use and disclosure of Protected Health Information (PHI), which includes individually identifiable health information held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

**Identification Card** – Wallet-size card issued by the Vendor {Contractor} identifying the individual named thereon as a Member of the Plan.

**Individually Identifiable Health Information** – Is defined in a manner consistent with HIPAA and generally means the subset of health information that identifies a Member, including but not limited to a Member's name, address, Social Security number, Member identification number, and telephone number, or any other data for which there is a reasonable basis to believe would the information can be used to identify the individual.

**Integrated Delivery Network (IDN)** – an organization that owns and operates a **network** of one or more healthcare facilities with a goal of logical integration of the delivery (provision) of health care as opposed to a fragmented system or a disorganized lack of system.

**Live Navigation** – Telephonic support for Members for Claims, clinical, or health care questions. Advocates are able to help Members solve their questions or concerns and connect them to the appropriate programs and resources if necessary. Advocates will also proactively engage

Members when there is an opportunity to improve decisions, health or outcomes and help them seamlessly navigate the health care system.

**Local Education Employers (Local Education)** – Public employer for SEHBP purposes including, but not limited to local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, county college, any officer, board, or commission under the authority of the Commissioner of Education or of the State Board of Education.

**Local Employer** - Public employers, including both Local Education and Local Government Employers such as counties, municipalities and authorities, including independent State authorities not designated as “State employers” for SHBP purposes, local school district, regional school district, county vocational school district, county special services school district, jointure commission, educational services commission, State-operated school district, charter school, county college, any officer, board, or commission under the authority of the Commissioner of Education or of the State Board of Education, and any other public entity which is established pursuant to authority provided by Title 18A of the New Jersey Statutes.

**Local Government Employers (Local Government)** – Public employer for SHBP purposes including, but not limited to, counties, municipalities, and authorities (including certain State authorities with independent purchasing authority that permits them to elect coverage other than that provided by the SHBP).

**Major Diagnostic Categories (MDCs)** – Major Diagnostic Categories are categories of conditions like Pregnancy or Musculoskeletal. The MDCs aggregate DRGs by similar type of service in broader categories.

**Mass Communication** – Any communication with the intent to impart and exchange information on a large scale to a wide range of Members.

**Medicare** – Medicare Part A and Part B, together, are called Original Medicare. Through the Center for Medicare & Medicaid Services, the United States government set up Original Medicare to cover a wide range of medical expenses for individuals 65 and older and individuals with certain disabilities.

**Medicare Advantage (MA)** – A type of Medicare health plan offered by a private company that contracts with Medicare to provide a substitute for Part A and Part B Medicare benefits.

**Medicare Retiree** – A retired Member of the State, Local Government, or Local Education group that is 65 years of age or older, or otherwise qualified to enroll in Medicare due to health status, and is currently enrolled in Medicare. Eligible Retirees may enroll in a Self-insured Medicare Supplement plan or a Fully Insured Medicare Advantage Plan. Where relevant, the term Medicare Retiree is used to distinguish Medicare Supplement Retirees. The Medicare Advantage plans are not applicable to this RFP.

**Medical Director** – Physician charged with the direction and management of the Vendor’s {Contractor’s} medical and clinical activities.

**Medical Management** – Umbrella term that encompasses overall health management including Disease, Care, and Case Management functions that are designed to modify consumer and Provider behavior to improve the quality and outcome of healthcare delivery.

**Member** – Employees, Early Retirees, Medicare Retirees, Employees on approved leaves of absence, enrolled Dependents, and qualified beneficiaries under COBRA, Chapter 375, or similar state health benefit continuation laws who meet the conditions for eligibility in the SHBP/SEHBP and are enrolled in the plan. This does not include non-eligible family members of employees. Members are Individuals within the meaning of HIPAA.

**Mental Health** – A Member’s condition with regard to their psychological and emotional well-being.

**Narrow Networks** – Network alternatives that contract with a limited number of providers to maximize purchasing power, leverage and improve quality of care.

**National Committee for Quality Assurance (NCQA)** – An independent 501(c)(3) non-profit organization in the United States that works to improve health care quality through the administration of evidence-based standards, measures, programs, and accreditation.

**Network Provider** –A hospital, clinic, supplier of tangible medical goods, health care professional, or group of health care professionals who provide services to patients that have directly, or through a third party, entered into a written agreement with the Vendor {Contractor} to provide one or more health care services to persons who have enrolled in one of the offered Plans. Network designation may differ based on which Plan the Member is enrolled (e.g., PPO, HMO, Tiered Network).

**Network Provider Contract** – Written agreement directly or indirectly through a third party, between the Vendor {Contractor} and a Network Provider or facility, requiring the Network Provider or facility to perform specific services and to fulfill certain obligations in accordance with the terms of that agreement.

**NJWELL** – A voluntary Wellness Program established by the SHBP and SEHBP Plan Design Committees through which Employees and their eligible spouses participate in various wellness activities and earn points that are redeemed for gift cards.

**NJWELL Enrollee** – any Employee that is engaged in the wellness platform in the NJWELL plan year through completion of one or more of point-achieving activities.

**Open Enrollment** – A period of time each year when individuals can sign up for health insurance. If health insurance is not elected during the annual open enrollment period, the next opportunity for enrollment would be the next open enrollment period or a qualifying event.

**Outcomes Based Metrics** – Metrics designed to measure the change in health of an individual, group of people, or population that is attributable to an intervention or series of interventions.

**Out of Hospital Prescription Drugs** –Drugs covered in accordance with the Medical Plan offering.

**Out-of-Network Shared Savings** – A Recovery Services program intended to reduce the charge for out-of-network services and provide balance billing protection to Members.

**Out-of-Network Provider** – New Jersey based providers and facilities, as determined by the plan administrator, whom are not within Bidder's proposed network offering. Out-of-Network provider will only be covered at an In-Network benefit if prior authorization is received or on an emergency or urgent basis pursuant to N.J.A.C.11:24-5.3. Otherwise, the Out-of-Network benefit will be as illustrated as described in Chapter 44.

**Out-of-State Provider** – Non-New Jersey based providers and facilities, as determined by the plan administrator. Out-of-State services will be paid 100% by the covered person and subject to Reference Based Pricing support. The plan will only cover Out-of-State services at an In-Network benefit if a covered person receives prior authorization to utilize an Out-of-State provider or receives medically necessary services at any health care facility on an emergency or urgent basis pursuant to N.J.A.C.11:24-5.3.

**Participating Employers** – New Jersey public employers other than the State, that have elected to participate in the State's health benefits programs in accordance with the law and rules governing the SHBP/SEHBP.

**Patient Protection and Affordable Care Act (PPACA)** – The federal law with the goal of providing rights and protections that make health coverage more fair and easy to understand, along with subsidies (through "premium tax credits" and "cost-sharing reductions") to make it more affordable.

**Per Employee Per Month (PEPM)** – Refers to the average cost of services charged by the Vendor {Contractor} on a Subscriber basis for a one-month period.

**Plan** – Specific plan under the SHBP/SEHBP such as the PPO, HMO, HDHP, Tiered Network, or Medicare Supplement plans.

**Plan Benefits** – Healthcare and other ancillary services available to Members rendered in accordance with the Plan.

**Plan Design Committees** – The State Health Benefits Plan Design Committee and the School Employees' Health Benefits Plan Design Committee created by Public Law 2011, Chapter 78, which are responsible for reviewing the SHBP and SEHBP plan designs, respectively, and developing any changes therein.

**Plan Document** – Document which describes the benefits, limitations and rights afforded to Members under the Plan, typically the Plan Handbook and/or Summary Program Description.

**Plan Eligibility File** – File created by the DPB and transmitted to the Vendor {Contractor} listing the names and other pertinent information necessary for the Vendor {Contractor} to enroll a Subscriber and that Subscriber's Dependents into the Plan, to terminate enrollment, or to make changes to existing Subscriber records. The DPB is solely responsible for all enrollment/eligibility determinations.

**Plan Payment Method** – The type of payment system the insurance provider coordinates payment (DRG, Per Diem, Bundles, AGP/APC).

**Plan Year** – A twelve-month period, i.e., January 1 through December 31. The SHBP/SEHBP plan year for benefit purposes is a calendar year. Rate-setting also occurs on a calendar year basis.

**Per Member Per Month (PMPM)** – Refers to the average cost of services charged by a Contractor on a Member basis for a one-month period.

**Preferred Provider Organization (PPO)** – Managed healthcare benefit arrangement designed to supply services at a discounted cost by providing incentives for Members to use designated healthcare providers (who contract with the PPO at a discount), but which also provides coverage for services rendered by healthcare providers who are not part of the PPO network.

**Premium** – The monthly fee that is generally paid to an insurance carrier to provide health coverage for fully-insured plan options.

**Primary Care Provider (PCP)** – Physician engaged in general practice, family practice, internal medicine or pediatrics who, in general, provides basic health services to and arranges specialized services for those Members. In accordance with the standards of the Vendor {Contractor}, the term may also encompass nurse practitioners/clinical nurse specialists operating within the scope of their respective licenses.

**Prior Authorization** – The process of obtaining certification or authorization by completing a review of clinical appropriateness against pre-established criteria from the Vendor {Contractor} for specified services. Failure to obtain prior authorization can result in a financial penalty to the Member.

**Programs** – State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

**Protected Health Information (PHI)** – Any information that, if disclosed, would identify an individual Member, including but not limited to **Individually Identifying Health Information**, medical histories, test and laboratory results, mental health conditions, and health insurance information.

**Provider** – A hospital, clinic, supplier of tangible medical goods, health care professional, or group of health care professionals who provide services to patients.

**Public Health Service Act, as amended (“the PHS Act”)** – The Act that gave the United States Public Health Service responsibility for preventing the introduction, transmission and spread of communicable diseases from foreign countries into the United States.

**Pursue and Pay** – A coordination of benefits approach designed to determine the primary and secondary liability before a Claim is paid.

**Recovery Services** – Programs intended to recoup the Claims cost associated with (1) subrogated Claims where a third party may be liable for the cost of the care received; (2) handling recoveries of workers compensation liens; (3) out-of-network Claims negotiations processes; and (4) erroneous billing of hospitals or providers.

**Reference Based Pricing (RBP)** – Limit eligible charges to a reference price based on a percentage of Medicare price or cost.

**Residential Care** – Treatment centers where patients are housed and supervised around the clock while receiving treatment and observation.

**Retiree** - A Member of the State or Local Employer group that is retired. A Retiree could be an Early Retiree and not yet eligible to enroll in Medicare, a Medicare Retiree that is over 65 years of age enrolled in Medicare (with ability to enroll in either Self-Insured Medicare Supplement or Fully Insured Medicare Advantage Plan). Where relevant, the term Early Retiree is used to distinguish this subset of Retirees while the term Medicare Retiree is used to distinguish the subset of Retirees enrolled in the Self-Insured Medicare Supplement plans. The Medicare Advantage plans are not applicable to this RFP.

**Retiree Wellness Program** – A Program offered to a small number of State Retirees. The program provides for early detection and intervention to address health risks, encourages the development of healthy lifestyles, provides reminders for tests and screenings, and offers guidance to those struggling with chronic disease. The retiree premium contribution is waived through participation.

**Return on Investment (ROI)** – A metric to measure, per period, rates of return on money invested in a program in order to decide the cost effectiveness of the program offered.

**School Employees' Health Benefits Program (SEHBP)** – The health benefits program established pursuant to N.J.S.A. 52:14-17.46.1 et seq.

**(S)tate, (E)ducation, or (L)ocal Government (SEL)** – Employers that participate in the SHBP/SEHBP are categorized by the following types of employer: State, Education, or Local Government Employer. State employers include State agencies and State colleges and universities. Education employers include Local Employers such as county colleges and boards of education. Examples of Local Government Employers include counties, municipalities, and authorities (including certain State authorities with independent purchasing authority that permits them to elect coverage other than that provided by the SHBP). State employers are required to participate in the SHBP. Local Employers, including Education and Local Government Employers can elect to participate in the SEHBP/SHBP.

**State Health Benefits Commission/School Employees' Health Benefits Commission (Commissions)** – The entities created by N.J.S.A. 52:14-17.27 and N.J.S.A. 52:14-17.46.3 charged with overseeing the SHBP/SEHBP. The DPB administers the SHBP/SEHBP pursuant to N.J.S.A. 52:14-17.25 and N.J.S.A. 52:14-17.46.1.

**State Health Benefits Program (SHBP)** – The health benefits program established pursuant to N.J.S.A. 52: 14-17.25 et seq.

**Subscriber** – An Employee, Retiree, survivor, COBRA beneficiary or Chapter 375 Member enrolled in the SHBP/SEHBP by the DPB.

**Substance Use Disorder** – A condition in which the use of one or more substances leads to a clinically significant impairment or distress.

**Summary of Benefits and Coverage (SBC)** – A simple and standardized comparison document required by the Patient Protection and Affordable Care Act (PPACA). All health plans are required



to produce a Summary of Benefits and Coverage based on a uniform template and customized to reflect the plan's unique terms.

**Summary Plan Description (SPD)** – Document which describes all of the Plan details, limitations, exclusions and appeal processes relative to each of the Plan options.

**Targeted Outreach** – The use of technology to prioritize Member experience and engagement by targeting care coordination, after identifying gaps in patient care through data research, health assessments, medication adherence, etc.

**Telehealth** – The use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services.

**Telemedicine** – The delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.). “Telemedicine” does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

**Third Party Application – The software program administered by the Vendor {Contractor} for member engagement activities.**

**Three-Digit Zip Code** – A group of numbers that are added to a postal address to assist the sorting of mail by identifying a geographic location. The first three digits of a zip-code identify the region of the United States and the central post office facility in that region.

**Tiered Network Plan** – A two-tiered medical plan currently offered by the SHBP. Tiered Network Plan enrollees who use Tier 1 Providers have lower out-of-pocket cost-sharing than enrollees who use Tier 2 providers. Services such as hospice, maternity, and inpatient mental health/substance use disorder are covered at no cost when provided by a Tier 1 Provider. The Tiered Network Plans do not cover out-of-network benefits. The Network/Claims Vendor {Contractor} contracts with Tier 1 providers for better discounts, pay-for-value contracts, and strong outcomes requirements.

**TPA (Third Party Administrator)** – A vendor that can, but is not limited to, conducting Claims administration, network management, and Claims processing for a third-party organization.

**Transparency**– Making available to the public, in a reliable, and understandable manner, information on the health care system's quality, efficiency and consumer experience with care, which includes price and quality data, so as to influence the behavior of patients, providers, payers, and others to achieve better outcomes (quality and cost of care).

**Utilization Management (UM)** – A set of techniques used by health insurance carriers to manage health care costs by influencing patient care decision-making through case-by-case assessments of the appropriateness of care both prior to and post-provision.

**Wellness Program** – A program offered by an employer to employees and their dependent spouses that provides rewards for taking specific steps to measure and improve their health and wellbeing.

### **3.0 SECURITY PLAN AND STANDARDS**

The Vendor {Contractor} must provide a detailed system design document showing Security Plan, Disaster Recovery Plan, Contingency Plan and Backup Plan. Logical and physical diagrams are required.

#### **3.1 SECURITY PLAN**

The Vendor {Contractor} shall submit a detailed Security Plan that addresses the Vendor's {Contractor's} approach to meeting each applicable security requirement outlined below, to the State, no later than 30 days after the award of the Blanket P.O. The State approval of the Security Plan shall be set forth in writing. In the event that the State reasonably rejects the Security Plan after providing the Vendor {Contractor} an opportunity to cure, the Director may terminate the Blanket P.O. pursuant to the SSTC.

##### **3.1.1 INFORMATION SECURITY PROGRAM MANAGEMENT**

The Vendor {Contractor} shall establish and maintain a framework to provide assurance that information security strategies are aligned with and support the State'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 Vendor's {Contractor's} information security program.

##### **3.1.2 COMPLIANCE**

The Vendor {Contractor} shall develop and implement processes to ensure its compliance with all statutory, regulatory, contractual, and internal policy obligations applicable to this Blanket P.O. 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. Vendor {Contractor} shall timely update its processes as applicable standards evolve.

- A. Within ten (10) days after award, the Vendor {Contractor} shall provide the State 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, Vendor {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 Vendor {Contractor} shall also conduct periodic reviews of its information systems on a defined frequency for compliance with statutory, regulatory, and contractual requirements. The Vendor {Contractor} shall document the results of any such reviews.

### 3.1.3 PERSONNEL SECURITY

The Vendor {Contractor} shall implement processes to ensure all personnel having access to relevant State 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. Vendor {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.

### 3.1.4 SECURITY AWARENESS AND TRAINING

The Vendor {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 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.

### 3.1.5 RISK MANAGEMENT

The Vendor {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.

### 3.1.6 PRIVACY

If the State data associated with the Blanket P.O. includes PII, State Confidential Information, this section is applicable.

- A. Data Ownership. The State is the data owner. Vendor {Contractor} shall not obtain any right, title, or interest in any of the data furnished by the State, or information derived from or based on State data.
- B. Data usage, storage, and protection of PII and State Confidential Information, as defined in Section 5.9 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. Vendor {Contractor} shall also conform to PCI DSS, where applicable.
- C. Security: Vendor {Contractor} agrees to take appropriate administrative, technical and physical safeguards reasonably designed to protect the security, privacy, confidentiality, and integrity of user information. Vendor {Contractor} shall ensure that PII and other State Confidential Information is secured and encrypted during transmission or at rest.
- D. Data Transmission: The Vendor {Contractor} shall only transmit or exchange State of New Jersey data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the Blanket P.O. or the State of New Jersey. The Vendor {Contractor} shall only transmit or exchange data with the State of New Jersey or other parties through secure means supported by current technologies. The Vendor {Contractor} shall encrypt all PII and other State Confidential Information as defined by the State of New Jersey or applicable law, regulation or standard during any transmission or exchange of that data.

- E. Data Re-Use: All State data shall be used expressly and solely for the purposes enumerated in the Blanket P.O. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of the Vendor {Contractor}. No State 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 State Contract Manager.
- F. 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 PII (each, a security breach) that may concern any State Confidential Information or PII, Vendor {Contractor} shall: (a) notify the State immediately of such breach, but in no event later than 24 hours after such security breach; (b) designate a single individual employed by Vendor {Contractor} who shall be available to the State 24 hours per day, seven (7) days per week as a contact regarding Vendor's {Contractor's} obligations under Section 3.1.33 (Incident Response); (c) not provide any other notification or provide any disclosure to the public regarding such security breach without the prior written consent of the State, 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 Vendor {Contractor} shall consult with the State and reasonably cooperate with the State to prevent any notification or disclosure concerning any PII, security breach, or other State Confidential Information); (d) assist the State in investigating, remedying and taking any other action the State deems necessary regarding any security breach and any dispute, inquiry, or claim that concerns the security breach; (e) follow all instructions provided by the State relating to the State Confidential Information affected or potentially affected by the security breach; (f) take such actions as necessary to prevent future security breaches; and (g) unless prohibited by an applicable statute or court order, notify the State of any third party legal process relating to any security breach including, at a minimum, any legal process initiated by any governmental entity (foreign or domestic).
- G. Minimum Necessary. Vendor {Contractor} shall ensure that PII and other State Confidential Information requested represents the minimum necessary information for the services as described in this Bid Solicitation and, unless otherwise agreed to in writing by the State, that only necessary individuals or entities who are familiar with and bound by the Blanket P.O. will have access to the State Confidential Information in order to perform the work.
- H. End of Contract Data Handling: Upon termination/expiration of this Blanket P.O. the Vendor {Contractor} shall first return all State data to the State in a usable format as defined in the Blanket P.O., or in an open standards machine-readable format if not. The Vendor {Contractor} shall then erase, destroy, and render unreadable all Vendor {Contractor} back up copies of State data according to the standards enumerated in accordance with the State's most recent Media Protection policy, [https://www.nj.gov/it/docs/ps/NJ\\_Statewide\\_Information\\_Security\\_Manual.pdf](https://www.nj.gov/it/docs/ps/NJ_Statewide_Information_Security_Manual.pdf), and certify in writing that these actions have been completed within 30 days after the termination/expiration of the Blanket P.O. or within seven (7) days of the request of an agent of the State whichever should come first.
- I. In the event of loss of any State data or records where such loss is due to the intentional

act, omission, or negligence of the Vendor {Contractor} or any of its subcontractors or agents, the Vendor {Contractor} shall be responsible for recreating such lost data in the manner and on the schedule set by the State Contract Manager. The Vendor {Contractor} shall ensure that all data is backed up and is recoverable by the Vendor {Contractor}. In accordance with prevailing federal or state law or regulations, the Vendor {Contractor} shall report the loss of non-public data.

### 3.1.7 ASSET MANAGEMENT

The Vendor {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.

### 3.1.8 SECURITY CATEGORIZATION

The Vendor {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.

### 3.1.9 MEDIA PROTECTION

The Vendor {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 Vendor {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.

### 3.1.10 CRYPTOGRAPHIC PROTECTIONS

The Vendor {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.

### 3.1.11 ACCESS MANAGEMENT

The Vendor {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 Vendor's {Contractor's} information systems that contain or could be used to access 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;
- F. Conduct periodic reviews of access authorizations and controls.

### 3.1.12 IDENTITY AND AUTHENTICATION

The Vendor {Contractor} shall establish procedures and implement identification, authorization, and authentication controls to ensure only authorized individuals, systems, and processes can access the State's information and Vendor's {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 Vendor's {Contractor's} systems.

### 3.1.13 REMOTE ACCESS

The Vendor {Contractor} shall strictly control remote access to the Vendor's {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 Vendor's {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.

#### 3.1.14 SECURITY ENGINEERING AND ARCHITECTURE

The Vendor {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.

#### 3.1.15 CONFIGURATION MANAGEMENT

The Vendor {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.

#### 3.1.16 ENDPOINT SECURITY

The Vendor {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.

### 3.1.17 ICS/SCADA/OT SECURITY

The Vendor {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 Bid Solicitation, 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 Vendor's {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.

### 3.1.18 INTERNET OF THINGS SECURITY

The Vendor {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. 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 Vendor's {Contractor's} networks; and
- E. Ensuring least privilege and strong authentication controls are implemented.

### 3.1.19 MOBILE DEVICE SECURITY

The Vendor {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.

### 3.1.20 NETWORK SECURITY

The Vendor {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 Vendor {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 Vendor's {Contractor's} information systems (e.g. network segmentation, network intrusion detection and prevention systems, wireless restrictions, etc.).

### 3.1.21 CLOUD SECURITY

The Vendor {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 Vendor {Contractor} and the cloud provider are delineated and documented; and
- D. Controls necessary to protect sensitive data in public cloud environments are implemented.

### 3.1.22 CHANGE MANAGEMENT

The Vendor {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 Vendor {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 stakeholder 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.

### 3.1.23 MAINTENANCE

The Vendor {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.

### 3.1.24 THREAT MANAGEMENT

The Vendor {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 vendors, and other sources as appropriate.

### 3.1.25 VULNERABILITY AND PATCH MANAGEMENT (VU)

The Vendor {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.

### 3.1.26 CONTINUOUS MONITORING

The Vendor {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.

### 3.1.27 SYSTEM DEVELOPMENT AND ACQUISITION

The Vendor {Contractor} shall establish security requirements necessary to ensure that systems and application software programs developed by the Vendor {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.

### 3.1.28 PROJECT AND RESOURCE MANAGEMENT

The Vendor {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.

### 3.1.29 CAPACITY AND PERFORMANCE MANAGEMENT

The Vendor {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.

### 3.1.30 THIRD PARTY MANAGEMENT

The Vendor {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 Vendor's {Contractor's} systems and sensitive information;
- C. Third party interconnection security; and
- D. Independent testing and security assessments of supplier technologies and supplier organizations.

### 3.1.31 PHYSICAL AND ENVIRONMENTAL SECURITY

The Vendor {Contractor} shall establish physical and environmental protection procedures that limit access to systems, equipment, and the respective operating environments, to only authorized individuals. The Vendor {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.

### 3.1.32 CONTINGENCY PLANNING

The Vendor {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 Vendor {Contractor}. The plan shall address the following:

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

### 3.1.33 INCIDENT RESPONSE

The Vendor {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.

## 4.0 QUOTE PREPARATION AND SUBMISSION

### 4.1 GENERAL

A Vendor {Bidder} may submit additional terms as part of its Quote and Quotes including Vendor {Bidder} proposed terms and conditions may be accepted, but Vendor {Bidder} proposed terms or conditions that conflict with those contained in the RFP, as defined in Section 2.0 of this document, or that diminish the State's rights under any Blanket P.O. resulting from the RFP, may render a Quote non-responsive. It is incumbent upon the Vendor {Bidder} to identify and remove its conflicting proposed terms and conditions prior to Quote submission. Where additional terms are submitted they may be accepted, rejected, or negotiated, in whole or in part, at the State's sole discretion where the terms do not conflict with material terms of the RFP or do not diminish the State's rights under the Blanket P.O. resulting from the RFP.

In the event that a Vendor {Bidder} intends to propose terms and conditions that conflict with the RFP, those Vendor {Bidder} proposed terms and conditions shall only be considered if submitted and agreed to pursuant to the electronic question and answer procedure set forth in Section 1.1.1 of this document.

After award of the Blanket P.O., if a conflict arises between a Vendor's {Bidder's} additional terms included in the Quote and a term or condition of the RFP, the term or condition of the RFP will prevail.

Use of URLs in a Quote should be kept to a minimum and shall not be used to satisfy any material term of a RFP. If a preprinted or other document included as part of the Quote contains a URL, a printed copy of the URL page shall be provided and will be considered as part of the Quote.

The forms discussed herein and required for submission of the Quote in response to this RFP can be found on the Division of Purchase and Property's website (<http://www.state.nj.us/treasury/purchase/forms.shtml>) unless otherwise noted.

### 4.2 QUOTE DELIVERY AND IDENTIFICATION

A Quote must arrive at the Division in accordance with this RFP's instructions within the time frames noted on the cover sheet or as indicated on the posted Bid Amendment if the Quote Opening Date has been changed. Vendors {Bidders} submitting Quotes are cautioned to allow adequate delivery time to ensure timely delivery of Quotes. **Late Quotes, regardless of submission method, are ineligible for consideration.**

### 4.3 QUOTE SUBMISSION INSTRUCTIONS

The Vendor {Bidder} is required to submit one hard copy of their Quote **with original, physical signature of all forms.** (Please note: Volume 3 does not need to be submitted by hard copy) In addition to the hard copy, the Vendor {Bidder} must submit:

- A. **Five (5) complete and exact ELECTRONIC copies** of the original Quote in PDF file format on CD, DVD, or USB Drive. These should be cover to cover copies, and should not be password protected. **THE STATE-SUPPLIED PRICE SHEET (VOLUME 3) SHALL NOT BE INCLUDED ON THIS ELECTRONIC COPY**



- B. **One (1) complete and exact ELECTRONIC copy** of the original State-Supplied Price Sheet (Volume 3) in Microsoft Excel file format on CD, DVD, or USB Drive . This should be a cover to cover copy, and should not be password protected.

If a Vendor {Bidder} has designated any data or materials it asserts are exempt from public disclosure under OPRA and/or the common law, the Vendor {Bidder} should include a redacted copy of the Quote indicating the sections identified as confidential.

**THE EXTERIOR OF ALL QUOTE PACKAGES SHALL BE LABELED WITH THE RFP NAME AND THE FINAL QUOTE SUBMISSION DATE OR RISK NOT BEING RECEIVED IN TIME.**

Copies are necessary in the evaluation of the Quote and for record retention purposes. A Vendor {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. The Vendor {Bidder} should make and retain a copy of its Quote.

**QUOTES NOT RECEIVED PRIOR TO THE QUOTE OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE OPENING IS INDICATED ON THE COVER SHEET.**

**IF THE QUOTE OPENING DEADLINE HAS BEEN REVISED, THE NEW QUOTE OPENING DEADLINE SHALL BE SHOWN ON THE POSTED BID AMENDMENT AND ON THE DIVISION OF PENSIONS AND BENEFITS WEBSITE.**

Note: A Vendor {Bidder} should make every effort to submit its Quote well ahead of the Quote submission deadline to mitigate unforeseen delays or issues. The Vendor {Bidder} is solely responsible for the timely submission of its Quote in response to this RFP.

**4.4 QUOTE CONTENT**

The Quote should be submitted in three (3) volumes with the content of each volume as indicated below.

**A. Volume 1**

Section 1 - Forms (Sections 4.4.1 and 4.4.2).

**B. Volume 2**

Section 2 - Technical Quote (Section 4.4.3)

Section 3 - Organizational Support and Experience (Section 4.4.4)

Section 3A - Any other miscellaneous documents to be included by the Vendor {Bidder}

Section 3B – Additional technical files requested in Attachments:

- Network Access Analysis Workbook (Attachment A)
- Performance Standards (Attachment D)
- Questionnaire Workbook (Attachment C)

**C. Volume 3**

Section 4 –Pricing Sheets (Attachment E); and

- ASO Fees
- ASO Fee Additional Details

- Recovery Services
- Credits
- Financial Guarantee

Section 4A – Additional financial files requested in attachments.

- Discount Workbook (Attachment B)
  - Part 1 Physician Reimbursement
  - Part 1 Inpatient Facility Reimbursement
  - Part 1 Outpatient Facility Reimbursement

#### **4.4.1 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED WITH QUOTE**

Vendors {Bidders} submitting their forms must complete the full version of the form and may refer to instructions included within the forms on the Division of Purchase and Property's [website](#).

Vendors {Bidders} are under a continuing obligation to report updates to the information contained in its required forms.

Unless otherwise specified, forms must contain an original, physical signature.

##### **4.4.1.1 OFFER AND ACCEPTANCE PAGE**

The Vendor {Bidder} shall complete and submit the Offer and Acceptance Page accompanying this RFP prior to the initiation of negotiation. The Vendor {Bidder} should submit the Offer and Acceptance Page with the Quote. All information requested on the Offer and Acceptance Page must be submitted.

If the Offer and Acceptance Page is not submitted with the Quote or is incomplete, the State will require the Vendor {Bidder} to submit the Offer and Acceptance Page. If the Vendor {Bidder} fails to comply with the requirement within seven (7) business days of the demand, the State may deem the Quote non-responsive.

The Offer and Acceptance Page must be signed by an authorized representative of the Vendor {Bidder}. If the Vendor {Bidder} is a limited partnership, the Offer and Acceptance Page must be signed by a general partner. If the Vendor {Bidder} is a joint venture, the Offer and Acceptance Page must be signed by a principal of each party to the joint venture.

##### **4.4.1.1.1 MACBRIDE PRINCIPLES CERTIFICATION**

The Vendor {Bidder} must certify pursuant to N.J.S.A. 52:34-12.2 that it is in compliance 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 its compliance with those principles. See Section 2.5 of the SSTC and N.J.S.A. 52:34-12.2 for additional information about the MacBride principles.

By signing the RFP Offer and Acceptance Page, the Vendor {Bidder} is automatically certifying that either:

- A. The Vendor {Bidder} has no operations in Northern Ireland; or

- B. The Vendor {Bidder} has business operations in Northern Ireland and is committed to compliance with the MacBride principles.

A Vendor {Bidder} electing not to certify to the MacBride Principles must nonetheless sign the RFP Offer and Acceptance Page AND must include, as part of its Quote, a statement indicating its refusal to comply with the provisions of this Act.

#### **4.4.1.1.2 NON-COLLUSION**

By submitting a Quote and signing the RFP Offer and Acceptance Page, the Vendor {Bidder} certifies as follows:

- A. The price(s) and amount of its Quote have been arrived at independently and without consultation, communication or agreement with any other Vendor {Contractor, Bidder} or any other party;
- B. Neither the price(s) nor the amount of its Quote, and neither the approximate price(s) nor approximate amount of this Quote, have been disclosed to any other firm or person who is a Vendor {Bidder} or potential Vendor {Bidder}, and they will not be disclosed before the Quote submission;
- C. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this Blanket P.O., or to submit a Quote higher than this Quote, or to submit any intentionally high or noncompetitive Quote or other form of complementary Quote;
- D. The Quote of the firm 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 Quote; and
- E. The Vendor {Bidder}, its affiliates, subsidiaries, officers, directors, and employees are not, to Vendor's {Bidder's} knowledge, currently under investigation by any governmental agency for alleged conspiracy or collusion with respect to bidding on any Blanket P.O./public contract and have not in the last five (5) years been convicted 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 Blanket P.O./public contract.

#### **4.4.1.1.3 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION**

The Treasurer has established a business ethics guide to be followed by Vendors {Bidders} in its dealings with the State. The guide provides further information about compliance with Section 2.7 of the SSTC. The guide can be found at:

<https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf>

By signing the RFP Offer and Acceptance Page, the Vendor {Bidder} is automatically certifying that it has complied with all applicable laws and regulations governing the provision of State goods and services, including the Conflicts of Interest Law, N.J.S.A. 52:13D-12 to 28.

#### **4.4.1.2 NJ STANDARD RFP FORMS REQUIRED WITH THE QUOTE**

Vendor's {Bidder's} failure to complete, sign and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

##### **4.4.1.2.1 OWNERSHIP DISCLOSURE FORM**

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

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, to comply with this section, a Vendor {Bidder} 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.

##### **4.4.1.2.2 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM**

Pursuant to N.J.S.A. 52:32-58, the Vendor {Bidder} must utilize this Disclosure of Investment Activities in Iran form to certify that neither the Vendor {Bidder}, 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 Vendor {Bidder}, 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 Vendor {Bidder} is unable to so certify, the Vendor {Bidder} shall provide a detailed and precise description of such activities as directed on the form. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. to said Vendor {Bidder}.

##### **4.4.1.3 SUBCONTRACTOR UTILIZATION PLAN**

If the Blanket P.O. is a small business subcontracting set-aside, the Vendor {Bidder} certifies that in engaging Subcontractors, it shall make a good faith effort to achieve the subcontracting set-aside goals, and shall attach to the Subcontractor Utilization Plan documentation of such efforts in accordance with N.J.A.C. 17:13-4.1 et seq.

For a Quote that does NOT include the use of any Subcontractors, by signing the RFP Offer and Acceptance Page, the Vendor {Bidder} is automatically certifying that in the event the award is

granted to the Vendor's {Bidder's} firm and the Vendor {Bidder} later determines at any time during the term of the Blanket P.O. to engage Subcontractors to provide certain goods and/or services, pursuant to Section 5.8 of the SSTC, the Vendor {Bidder} shall submit a Subcontractor Utilization Plan form for approval to the Division in advance of any such engagement of Subcontractors.

#### **4.4.2 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED BEFORE BLANKET P.O. AWARD AND THAT SHOULD BE SUBMITTED WITH THE QUOTE**

Unless otherwise specified, forms must contain an original, physical signature.

##### **4.4.2.1 BUSINESS REGISTRATION**

In accordance with N.J.S.A. 52:32-44(b), a Vendor {Bidder} and its named Subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of the Treasury, Division of Revenue and Enterprise Services prior to the award of a Blanket P.O. To facilitate the Quote evaluation and Blanket P.O. award process, the Vendor {Bidder} should submit a copy of its valid BRC and those of any named Subcontractors with its Quote. See Section 2.1 of the SSTC.

Any Vendor {Bidder}, inclusive of any named Subcontractors, not having a valid business registration at the time of the Quote opening, or whose BRC was revoked prior to the submission of the Quote, should proceed immediately to register its business or seek reinstatement of a revoked BRC.

The Vendor {Bidder} is cautioned that it may require a significant amount of time to secure the reinstatement of a revoked BRC. The process can require actions by both the Division of Revenue and Enterprise Services and the Division of Taxation. For this reason, a Vendor's {Bidder's} early attention to this requirement is highly recommended. The Vendor {Bidder} and its named Subcontractors may register with the Division of Revenue and Enterprise Services, obtain a copy of an existing BRC or obtain information necessary to seek re-instatement of a revoked BRC online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.

A Vendor {Bidder} otherwise identified by the Division as a responsive and responsible Vendor {Bidder}, inclusive of any named Subcontractors, but that was not business registered at the time of submission of its Quote must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Division. A Vendor {Bidder} failing to comply with this requirement by the deadline specified by the Division will be deemed ineligible for Blanket P.O. award. Under any circumstance, the Division will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration.

A Vendor {Bidder} receiving a Blanket P.O. award as a result of this procurement and any Subcontractors named by that Vendor {Bidder} will be required to maintain a valid business registration with the Division of Revenue and Enterprise Services for the duration of the executed Blanket P.O., inclusive of any Blanket P.O. extensions.

##### **4.4.2.2 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS INVOLVING BIDDER FORM**

The Vendor {Bidder} should submit the Disclosure of Investigations and Other Actions Involving Bidder Form, with its Quote, to 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. If a Vendor {Bidder} does not submit the form with the Quote, the Vendor {Bidder} must comply within seven (7) business days of the State's request or the State may deem the Quote non-responsive.

#### 4.4.2.3 SOURCE DISCLOSURE

Pursuant to N.J.S.A. 52:34-13.2, prior to an award of Blanket P.O., the Vendor {Bidder} is required to submit a completed Source Disclosure Form. The Vendor's {Bidder's} inclusion of the completed Source Disclosure Form with the Quote is requested and advised. See RFP Section 7.1.2 for additional information concerning this requirement.

#### 4.4.3 TECHNICAL QUOTE

In this section, the Vendor {Bidder} shall describe its approach and plans for accomplishing the work outlined in the Scope of Work/Technical Capabilities Document and the Administrative Requirements Document. The Vendor {Bidder} must set forth its understanding of the requirements of this RFP and its approach to successfully complete the Blanket P.O. The Vendor {Bidder} should include the level of detail it determines necessary to assist the evaluation committee in its review of the Vendor's {Bidder's} Quote. All provisions in the Scope of Work/Technical Capabilities Document and the Administrative Requirements Document labeled "Shall" or "Must" are required.

Additionally, the Vendor {Bidder} shall complete the Questionnaire, attached as Attachment C.

Vendor {Bidder} Responses to the Questionnaire shall be included with the Vendor {Bidder} Technical Quote in which the Vendor {Bidder} describes the approach and plan for accomplishing the work outlined in Section 3 of the Scope of Work/Technical Capabilities Document and Section 3 of the Administrative Requirements Document. The Questionnaire and Vendor {Bidder} Responses to the Questionnaire are intended to explore Vendor {Bidder} capabilities that might not otherwise be solicited, explained and/or addressed in the RFP, but which may be beneficial to the State in the future.

When responding to the Questionnaire, please keep in mind, the Vendor {Bidder} must respond to Attachment C and each applicable tab. Answers to the Questionnaire are deliberately soliciting proprietary, commercial or financial information which has the potential to provide a competitive advantage. The Vendor {Bidder} may designate any data or materials it asserts are exempt from public disclosure under OPRA and/or the common law right to know in accordance with RFP Section 1.2.4.

Vendors {Bidders} are encouraged to be candid in responding to the Questionnaire. Answers to the Questionnaire will be scored as part of the technical evaluation for their capacity to assist the State to generate innovative quality and cost savings measures to the SEHBP. The Vendor {Bidder} responses to the Questionnaire will be evaluated as part of the Technical analysis. **Failure to provide a response to all questions may be considered non-responsive.** The Scope of Work/Technical Capabilities Document requirements, the Administrative Requirements Document, and any innovative approaches outlined by Vendors {Bidders} will drive meaningful changes in the delivery of healthcare, clinical quality improvements and meaningful cost reductions in the SEHBP under this RFP {Contract}.

#### **4.4.3.1 MANAGEMENT OVERVIEW**

The Vendor {Bidder} shall set forth its overall technical approach and plans to meet the requirements of the RFP in a narrative format. This narrative should demonstrate to the State that the Vendor {Bidder} understands the objectives that the Blanket P.O. is intended to meet, the nature of the required work, and the level of effort necessary to successfully complete the Blanket P.O. This narrative should demonstrate to the State that the Vendor's {Bidder's} general approach and plans to undertake and complete the Blanket P.O. are appropriate to the tasks and subtasks involved.

Mere reiterations of RFP tasks and subtasks are strongly discouraged, as they do not provide insight into the Vendor's {Bidder's} approach to complete the Blanket P.O. The Vendor's {Bidder's} response to this section should be designed to demonstrate to the State that the Vendor's {Bidder's} detailed plans and approach proposed to complete the necessary work are realistic, attainable and appropriate and that the Vendor's {Bidder's} Quote will lead to successful Blanket P.O. completion.

#### **4.4.3.2 BLANKET P.O. MANAGEMENT**

The Vendor {Bidder} should describe its specific plans to manage, control and supervise the Blanket P.O. to ensure satisfactory Blanket P.O. completion according to the required schedule. The plan should include the Vendor's {Bidder's} approach to communicate with the SCM including, but not limited to, status meetings, status reports, etc.

#### **4.4.3.3 BLANKET P.O. SCHEDULE AND PLANS**

##### **4.4.3.3.1 BLANKET P.O. SCHEDULE**

The Vendor {Bidder} shall include a draft Blanket P.O. schedule. If key dates are a part of this RFP, the Vendor's {Bidder's} schedule should incorporate such key dates and should identify the completion date for each task and sub-task required by the Scope of Work/Technical Capabilities Document and the Administrative Requirements Document. Such schedule should also identify the associated deliverable item(s) to be submitted as evidence of completion of each task and/or subtask.

The Vendor {Bidder} should identify the Blanket P.O. scheduling and control methodology to be used and should provide the rationale for choosing such methodology. The use of Gantt, PERT or other charts is at the option of the Vendor {Bidder}.

##### **4.4.3.3.2 MOBILIZATION PLAN**

It is essential that the State have quick use of the functionality this Blanket P.O. is to provide. Therefore, each Vendor {Bidder} shall include as part of its Quote a mobilization plan, beginning with the date of notification of Blanket P.O. award and lasting through January 1, 2022.

Such mobilization plan should include the following elements:

- A. A detailed timetable for the mobilization period through January 1, 2022. This timetable should be designed to demonstrate how the Vendor {Bidder} will have the personnel and equipment it needs to begin work on the Blanket P.O. up and operational from the date of notification of award;

- B. The Vendor's {Bidder's} plan for the deployment and use of management, supervisory or other key personnel during the mobilization period. The plan should show all management, supervisory and key personnel that will be assigned to manage, supervise and monitor the Vendor's {Bidder's} mobilization of the Blanket P.O. within the period through January 1, 2022;
- C. **NOTE:** The Vendor {Bidder} should clearly identify management, supervisory or other key staff that will be assigned only during the mobilization;
- D. The Vendor's {Bidder's} plan for recruitment of staff required to provide all services required by the RFP on the Blanket P.O. start date at the end of the mobilization period.
- E. The Vendor's {Bidder's} plan for the purchase and distribution of equipment, inventory, supplies, materials, etc. that will be required to begin work on the Blanket P.O. on the required start date.

#### **4.4.3.3** **TECHNOLOGY PROJECT PLAN**

The Vendor {Bidder} shall provide its draft plan to accomplish all work required by this Blanket P.O. The Project Plan shall include:

- A. The Design and Development Plan: The Vendor {Bidder} should describe the methodology by which it will design and develop the required system functionality including the Software Development Lifecycle;
- B. The System Test Plan: The Vendor {Bidder} should describe its plans to complete system and user acceptance testing including its methodology for fixing bugs and defects and retesting;
- C. The Implementation Plan: The Vendor {Bidder} should describe its plans for system roll-out including System Pilot Testing and full deployment; and
- D. Operations and Maintenance Plans: The Vendor {Bidder} should describe its plans to support the operational system including application updates, new releases, bug and defect repairs, emergency maintenance/repairs of hardware and software and routine maintenance.

The plan should demonstrate to the Evaluation Committee that the Vendor {Bidder} understands the scope of work required for a successful implementation of the system, its operations and maintenance and support.

#### **4.4.3.4** **ADDITIONAL PLANS**

The Vendor {Bidder} shall provide its draft plans as required by Section 3 of this document to accomplish all work required by this Blanket P.O.

The plans shall demonstrate to the Evaluation Committee that the Vendor {Bidder} understands the scope of work required for a successful implementation of the system, its operations and maintenance and support.



#### 4.4.3.3.5 SUBMITTALS

Vendors {Bidders} shall complete:

- A. Attachment A: Network Access Analysis Workbook
- B. Attachment B: Discount Workbook
- C. Attachment C: Questionnaire Workbook
- D. Attachment D: Performance Standards Workbook

#### 4.4.4 ORGANIZATION SUPPORT AND EXPERIENCE

The Vendor {Bidder} shall include information relating to its organization, personnel, and experience, including, but not limited to, references, together with contact names and telephone numbers, evidencing the Vendor's {Bidder's} qualifications, and capabilities to perform the services required by this RFP.

The Vendor {Bidder} shall include the level of detail it determines necessary to assist the valuation committee in its review of Vendor's {Bidder's} Quote.

##### 4.4.4.1 LOCATION

The Vendor {Bidder} shall include the address of the Vendor's {Bidder's} office where responsibility for managing the Blanket P.O. will take place. The Vendor {Bidder} should include the telephone number and name of the individual to contact.

##### 4.4.4.2 ORGANIZATION CHARTS

- A. **Blanket P.O. -Specific Chart**. The Vendor {Bidder} shall include a Blanket P.O. organization chart, with names showing management, supervisory and other key personnel (including Subcontractor management, supervisory, or other key personnel) to be assigned to the Blanket P.O. The chart should include the labor category and title of each such individual; and
- B. **Chart for Entire Firm**. The Vendor {Bidder} shall include an organization chart showing the Vendor's {Bidder's} entire organizational structure. This chart should show the relationship of the individuals assigned to the Blanket P.O. to the Vendor's {Bidder's} overall organizational structure.

##### 4.4.4.3 RESUMES

The Vendor {Bidder} shall submit detailed resumes for both the Account Executive and Account Manager positions as identified in Section 3.1.4 of the Scope of Work/Technical Requirement document.

Additionally detailed resumes should be submitted for all other management, supervisory, and key personnel to be assigned to the Blanket P.O. Resumes should emphasize relevant qualifications and experience of these individuals in successfully completing Blanket P.O.s 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 Blanket P.O.;
- B. Beginning and ending dates for each similar Blanket P.O.;

- C. A description of the Blanket P.O. demonstrating how the individual's work on the completed Blanket P.O. relates to the individual's ability to contribute to successfully providing the services required by this RFP; and
- D. With respect to each similar Blanket P.O., the name and address of each reference together with a person to contact for a reference check and a telephone number.

Individuals filling the additional roles within the Account Management Team, as described in Section 3.1.4 of the Scope of Work/Technical Requirement document, shall be identified by the Vendor {Bidder}, along with an indication of whether the position is solely dedicated to the administration of this Blanket P.O. If not solely dedicated, indication of how many clients, and approximate time dedication to the State shall be outlined.

The Vendor {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. When a Vendor {Bidder} submits resumes pursuant to this paragraph, the Vendor {Bidder} shall redact the social security numbers, home addresses, personal telephone numbers, and any other personally identifying information other than the individual's name from the resume.

#### **4.4.4.4 BACKUP STAFF**

The Vendor {Bidder} should include a list of backup staff that may be called upon to assist or replace primary individuals assigned. Backup staff must be clearly identified as backup staff.

In the event the Vendor {Bidder} must hire management, supervisory and/or key personnel if awarded the Blanket P.O., the Vendor {Bidder} should include, as part of its recruitment plan, a plan to secure backup staff in the event personnel initially recruited need assistance or need to be replaced during the Blanket P.O. term.

#### **4.4.4.5 EXPERIENCE WITH CONTRACTS OF SIMILAR SIZE AND SCOPE**

The Vendor {Bidder} should provide a listing of three (3) contracts of similar size and scope to the SEHBP that it has as evidence of the Bidder's ability to successfully complete services similar to those required by this RFP.

- A. Vendors {Bidders}, similar size and scope shall be defined as an employer-sponsored group contract with at least 20,000 covered members covering Integrated Delivery Networks as outlined in this RFP.

A description of each of the three (3) 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, the Vendor {Bidder} shall provide two (2) names and telephone numbers of individuals for the other contract party. Beginning and ending dates shall also be given for each contract.

The Vendor {Bidder} should also provide at least two (2) organizations of similar size to the Blanket P.O. described by this RFP that **ceased** doing business with the Vendor {Bidder}, if any, during the past five (5) years. If applicable, the description shall include the length of the contract,

the termination date and the reasons for termination. For each such contract, the Bidder shall provide two names and telephone numbers of individuals for the other contract party.

The Vendor {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 Vendor {Bidder} should provide details, including any negative audits, reports, or findings by any governmental agency for which the Vendor {Bidder} is/was the Vendor {Contractor} on any contracts of similar scope. In the event a Vendor {Bidder} neglects to include this information in its Quote, the Vendor's {Bidder's} omission of necessary disclosure information may be cause for rejection of the Vendor's {Bidder's} Quote by the State.

The Vendor {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 Vendor's {Bidder's} Quote. The Vendor {Bidder} must provide a detailed description of services to be provided by each Subcontractor.

#### **4.4.4.6 FINANCIAL CAPABILITY OF THE VENDOR {BIDDER}**

The Vendor {Bidder} should provide sufficient financial information to enable the State to assess the financial strength and creditworthiness of the Vendor {Bidder} and its ability to undertake and successfully complete the Blanket P.O. In order to provide the State with the ability to evaluate the Vendor's {Bidder's} financial capacity and capability to undertake and successfully complete the Blanket P.O., the Vendor {Bidder} should submit the following:

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

If the information is not supplied with the Quote, the State may still require the Vendor {Bidder} to submit it. If the Vendor {Bidder} fails to comply with the request within seven (7) business days, the State may deem the Quote non-responsive.

A Vendor {Bidder} may designate specific financial information as not subject to disclosure when the Vendor {Bidder} has a good faith legal/factual basis for such assertion. A Vendor {Bidder} may submit specific financial documents in a separate, sealed package clearly marked "Confidential-Financial Information" along with the Quote.

The State reserves the right to make the determination to accept the assertion and shall so advise the Vendor {Bidder}.

#### **4.4.5 STATE-SUPPLIED PRICE SHEET**

The Vendor {Bidder} must submit its pricing using the State-Supplied Price Sheet (Attachment E).

##### **4.4.5.1 STATE-SUPPLIED PRICE SHEET INSTRUCTIONS**

Vendors {Bidders} shall provide self-insured Quotes for all populations – Actives and Pre-65s

Benefit Plans shall be offered on a New Jersey only basis.

Vendors {Bidders} are expected to submit a Quote with one network option for the Garden State Health Plan. The State expects the Vendor {Bidder} to propose a network that will offer the optimal discounts and financial results for the SEHBP while still adhering to the strategic priorities of the SEHBP. The entirety of the Quote for each part of the RFP – ASO fees, Network Access Analysis Workbook, Discounts through Financial Guarantees (Inpatient unit cost, Outpatient discount, and Professional unit cost guarantees) , etc. – should be based on this network.

Vendors {Bidders} shall submit Quotes based upon the plans set forth in Scope of Work/Technical Capabilities Document Section 3 The plan designs have been provided in Exhibit 7 for Plan Year 2022.

Vendors {Bidders} responding will be required to complete the following tabs on each of the identified attachments as part of their Quote:

- Network Access Analysis Workbook (Attachment A)
- Performance Standards (Attachment D)
- Questionnaire Workbook (Attachment C)
- Pricing Sheet (Attachment E):
  - ASO Fees: ASO Fees ASO Fee Additional Details
  - Recovery Services: Recovery Services
  - Credits: Credits
  - Financial Guarantee: Financial Guarantee
- Discount Workbook (Attachment B): Phys Reimbursement, IP Fac Reimbursement, OP Fac Reimbursement

##### **4.4.5.2 COLLECT ON DELIVERY (C.O.D.) TERMS**

C.O.D. terms are not acceptable as part of a Quote and shall be deemed non-responsive.

## 5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS APPLICABLE TO THE BLANKET P.O.

### 5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

This Blanket P.O. awarded, and the entire agreement between the parties, as a result of this RFP shall consist of this RFP, SSTC, Bid Amendment to this RFP, the Vendor's {Contractor's} Quote, any Best and Final Offer, and the Division's Notice of Award.

In the event of a conflict in the terms and conditions among the documents comprising this Blanket P.O., the order of precedence, for purposes of interpretation thereof, listed from highest ranking to lowest ranking, shall be:

- A. Executed Offer and Acceptance Page;
- B. RFP Section 5, as may be amended by Bid Amendment;
- C. The State of NJ Standard Terms and Conditions (SSTC) accompanying this RFP;
- D. All remaining sections of the RFP, as may be amended by Bid Amendment;
- E. The Vendor's {Contractor's} final submitted Best and Final Offer; and
- F. The Vendor's {Contractor's} Quote as accepted by the State.

### 5.2 BLANKET P.O. TERM AND EXTENSION OPTION

The base term of this Blanket P.O. shall be for a period of **three (3) years**. The anticipated "Blanket P.O. Effective Date" is January 1, 2022. If delays in the procurement process result in a change to the anticipated Blanket P.O. Effective Date, the Vendor {Bidder} agrees to accept a Blanket P.O. for the full term of this Blanket P.O.

This Blanket P.O. may be extended up to **two (2) years** with no single extension exceeding one (1) year, by the mutual written consent of the Vendor {Contractor} and the Director at the same terms, conditions, and pricing at the rates in effect in the last year of this Blanket P.O. or rates more favorable to the State.

### 5.3 BLANKET P.O. TRANSITION

In the event that a new Blanket P.O. has not been awarded prior to this Blanket P.O. expiration date, including any extensions exercised, and the State exercises this Blanket P.O. transition, the Vendor {Contractor} shall continue this Blanket P.O. under the same terms, conditions, and pricing until a new Blanket P.O. can be completely operational. At no time shall this transition period extend more than one (1) year beyond the expiration date of this Blanket P.O., including any extensions exercised.

#### **5.4 CHANGE ORDER**

Any changes or modifications to the terms of this Blanket P.O. shall be valid only when they have been reduced to writing and signed by the Vendor {Contractor} and the Director.

#### **5.5 VENDOR {CONTRACTOR} RESPONSIBILITIES**

The Vendor {Contractor} shall have sole responsibility for the complete effort specified in this Blanket P.O. Payment will be made only to the Vendor {Contractor}. The Vendor {Contractor} shall have sole responsibility for all payments due any Subcontractor.

The Vendor {Contractor} is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under this Blanket P.O. The Vendor {Contractor} shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its deliverables and other services. The approval of deliverables furnished under this Blanket P.O. shall not in any way relieve the Vendor {Contractor} of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services shall not be construed as a waiver of any rights that the State may have arising out of the Vendor's {Contractor's} performance of this Blanket P.O.

#### **5.6 SUBSTITUTION OF STAFF**

If it becomes necessary for the Vendor {Contractor} to substitute any management, supervisory or key personnel, the Vendor {Contractor} shall identify the substitute personnel and the work to be performed. The Vendor {Contractor} must provide detailed justification documenting the necessity for the substitution. Resumes must be submitted evidencing that the individual(s) proposed as substitute(s) have qualifications and experience equal to or better than the individual(s) originally proposed or currently assigned.

The Vendor {Contractor} shall forward a request to substitute staff to the SCM for consideration and approval. No substitute personnel are authorized to begin work until the Vendor {Contractor} has received written approval to proceed from the SCM.

#### **5.7 SUBSTITUTION OR ADDITION OF SUBCONTRACTOR(S)**

This Subsection serves to supplement but not to supersede Sections 5.8 and 5.9 of the SSTC accompanying this RFP.

The Vendor {Contractor} shall forward a written request to substitute or add a Subcontractor or to substitute its own staff for a Subcontractor to the SCM for consideration. If the SCM approves the request, the SCM will forward the request to the Director for final approval. No substituted or additional Subcontractors are authorized to begin work until the Vendor {Contractor} has received written approval from the Director.

If it becomes necessary for the Vendor {Contractor} to substitute a Subcontractor, add a Subcontractor, or substitute its own staff for a Subcontractor, the Vendor {Contractor} will identify the proposed new Subcontractor or staff member(s) and the work to be performed. The Vendor {Contractor} must provide detailed justification documenting the necessity for the substitution or addition.

The Vendor {Contractor} must provide detailed resumes of its proposed replacement staff or of the proposed 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 to undertake.

The qualifications and experience of the replacement(s) must equal or exceed those of similar personnel proposed by the Vendor {Contractor} in its Quote.

## **5.8 OWNERSHIP OF MATERIAL**

### **A. State Ownership of Data**

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of this Blanket P.O., including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, 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 Blanket P.O. shall be and remain the property of the State of New Jersey and shall be delivered to the State of New Jersey upon 30 days' notice by the State.

### **B. Intellectual Property Rights in Deliverables – Excluding Software**

1. If the Vendor {Bidder} anticipates using pre-existing intellectual property ("Background IP") within the deliverables called for under the Blanket P.O., the Background IP must be identified in the Quote. If the Vendor {Bidder} identifies such Background IP in its Quote, then the Background IP owned by the Vendor {Bidder} on the date of this Blanket P.O. and any modifications or adaptations thereto remain the property of the Vendor {Bidder}.
2. If in the course of performance of the Blanket P.O., Vendor {Contractor} encounters a need to incorporate Background IP into a deliverable, but the Background IP was not identified in the Quote, the Vendor {Contractor} must notify the SCM in writing, identifying the specific Background IP to be incorporated into the deliverable, and requesting approval thereof. Where approval is granted in writing, the Background IP owned by the Vendor {Contractor} as well as any modifications or adaptations thereto remain the property of the Vendor {Contractor}. If approval is not granted, the parties will negotiate mutually acceptable intellectual property rights to accomplish the State's goals for the affected deliverable(s).
3. The Vendor {Bidder/Contractor} grants the State a nonexclusive, irrevocable, royalty free license to use the Vendor's {Bidder's/Contractor's} Background IP delivered to the State for the purposes contemplated by this Blanket P.O.
4. Vendor {Bidder/Contractor} software computer programs and other methodologies used by Vendor {Bidder/Contractor} in the preparation of deliverables called for under the Blanket P.O., but not incorporated into the deliverable itself do not need to be identified as Background IP, and the Vendor {Contractor} retains all ownership therein, as applicable.

### **C. Intellectual Property Rights in Software Deliverables**

1. Where the Blanket P.O. requires the development and delivery of software computer programs, the State requires only the rights necessary to accomplish the purposes of the software as set forth in the RFP. Accordingly, unless the RFP requires Vendors {Contractors} to provide full ownership of the software computer programs, the Vendor {Bidder} proposing commercial off the shelf software, or customized/configured commercial off the shelf software (collectively "COTS") may

- license the COTS to the State on the same terms customarily provided to the public, provided that the license customarily provided to the public is:
- a. included within the Quote; and
  - b. sufficient to meet the State's needs as set forth in the RFP.
2. A license customarily provided to the public will necessarily include terms and conditions that conflict with the RFP. Accordingly, where a license agreement is included with the Quote pursuant to the terms of this section, the Vendor {Bidder} by including the license agreement with its Quote, expressly agrees that terms within the Vendor's {Bidder's} license agreement regarding indemnification, limitation of liability, choice of law, governing law, and confidentiality which conflict with the terms of the Blanket P.O. and are void and have no effect. The State expressly reserves the right to negotiate all other terms and conditions of the license agreement.
3. Where the RFP advises that the State seeks full ownership of the computer software program, the work shall be considered "work for hire", i.e., the State, not the Vendor {Contractor} or Subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed for or are a result of the services required under this Blanket P.O. To the extent that any of such materials may not, by operation of the law, be a work made for hire in accordance with the terms of this Blanket P.O., Vendor {Contractor} or Subcontractor hereby assigns to the State all right, title and interest in and to any such material, and the State shall have the right to obtain and hold in its own name and copyrights, registrations and any other proprietary rights that may be available.

## **5.9 SECURITY AND CONFIDENTIALITY**

### **5.9.1 DATA CONFIDENTIALITY**

All financial, statistical, personnel, customer and/or technical data supplied by the State to the Vendor {Contractor} are confidential (State Confidential Information). The Vendor {Contractor} must secure all data from manipulation, sabotage, theft or breach of confidentiality. The Vendor {Contractor} is prohibited from releasing any financial, statistical, personnel, customer and/or technical data supplied by the State that is deemed confidential. Any use, sale, or offering of this data in any form by the Vendor {Contractor}, or any individual or entity in the Vendor's {Contractor's} charge or employ, will be considered a violation of this Blanket P.O. and may result in Blanket P.O. termination and the Vendor's {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 Vendor {Contractor} shall assume total financial liability incurred by the Vendor {Contractor} associated with any breach of confidentiality.

When requested, the Vendor {Contractor} and all project staff including its Subcontractor(s) must complete and sign confidentiality and non-disclosure agreements provided by the State. The Vendor {Contractor} will be required to view yearly security awareness and confidentiality training modules provided by the State. Where required, it shall be the Vendor's {Contractor's} responsibility to ensure that any new staff sign the confidentiality agreement and complete the security awareness and confidentiality training modules within one (1) month of the employees' start date.

The State reserves the right to obtain, or require the Vendor {Contractor} to obtain, criminal history background checks from the New Jersey State Police for all Vendor {Contractor} and project staff



(to protect the State of New Jersey from losses resulting from Vendor {Contractor} employee theft, fraud or dishonesty). If the State exercises this right, the results of the background check(s) must be made available to the State for consideration before the employee is assigned to work on the State's project. Prospective employees with positive criminal backgrounds for cyber-crimes will not be approved to work on State Projects. Refer to the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-12, An Introduction to Computer Security: The NIST Handbook, Section 10.1.3, Filling the Position – Screening and Selecting.

#### **5.9.1.1 VENDOR'S {CONTRACTOR'S} CONFIDENTIAL INFORMATION**

- 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 Blanket P.O., 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 Blanket P.O. Vendor's {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 and anything identified in Vendor's {Contractor's} Quote as Background IP ("Vendor {Contractor} Confidential Information"). Notwithstanding the previous sentence, the terms and pricing of this Blanket P.O. are subject to disclosure under OPRA, the common law right to know, and any other lawful document request or subpoena;
- C. 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; (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;
- D. The State agrees to hold Vendor's {Contractor's} Confidential Information in confidence, using at least the same degree of care used to protect its own Confidential Information;
- E. In the event that the State receives a request for Vendor {Contractor} Confidential Information related to this Blanket P.O. pursuant to a court order, subpoena, or other operation of law, the State agrees, if permitted by law, to provide Vendor {Contractor} with as much notice, in writing, as is reasonably practicable and the State's intended response to such order of law. Vendor {Contractor} shall take any action it deems appropriate to protect its documents and/or information;
- F. In addition, in the event Vendor {Contractor} receives a request for State Confidential Information pursuant to a court order, subpoena, or other operation of law, Vendor {Contractor} shall, if permitted by law, provide the State with as much notice, in writing, as is reasonably practicable and Vendor's {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
- G. Notwithstanding the requirements of nondisclosure described in these Sections 5.9.1 and 5.9.1.1, 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 Vendor {Contractor} does not exercise its rights as described in Section 5.9.1.1(E), or if Vendor {Contractor} is unsuccessful in defending its rights as described in Section 5.9.1.1(E); or
  - (b) in the case of Vendor {Contractor}, if Vendor {Contractor} determines the documents or information are subject to disclosure and the State does not exercise its rights described in Section 5.9.1.1(F), or if the State is unsuccessful in defending its rights as described in Section 5.9.1.1(F).

## **5.9.2 DATA SECURITY STANDARDS**

Data Security: The Vendor {Contractor} at a minimum must protect and maintain the security of data traveling its network in accordance with generally accepted industry practices.

- A. Any Personally Identifiable Information must be protected. All data must be classified in accordance with the State's Asset Classification and Control policy, 08-04-NJOIT [https://nj.gov/it/docs/ps/08-04-NJOIT-130\\_Asset\\_Classification\\_Control\\_Policy.pdf](https://nj.gov/it/docs/ps/08-04-NJOIT-130_Asset_Classification_Control_Policy.pdf). Additionally, data must be disposed of in accordance with the State's Information Disposal and Media Sanitation policy, 09-10-NJOIT [https://www.nj.gov/it/docs/ps/09-10-P1-NJOIT\\_152-00-01-NJOIT%20Information\\_Disposal\\_Media\\_Sanitization\\_Procedure.pdf](https://www.nj.gov/it/docs/ps/09-10-P1-NJOIT_152-00-01-NJOIT%20Information_Disposal_Media_Sanitization_Procedure.pdf); and
- B. Data usage, storage, and protection is subject to all applicable federal and state statutory and regulatory requirements, as amended from time to time, including, without limitation, those for Health Insurance Portability and Accountability Act of 1996 (HIPAA), Personally Identifiable Information (PII), Tax Information Security Guidelines for Federal, State, and Local Agencies (IRS Publication 1075), New Jersey State tax confidentiality statute, 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. Vendor {Contractor} must also conform to Payment Card Industry (PCI) Data Security Standard;

Data Transmission: The Vendor {Contractor} must only transmit or exchange State of New Jersey data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the State of New Jersey. The Vendor {Contractor} must only transmit or exchange data with the State of New Jersey or other parties through secure means supported by current technologies. The Vendor {Contractor} must encrypt all data defined as personally identifiable or confidential by the State of New Jersey or applicable law, regulation or standard during any transmission or exchange of that data.

Data Storage: All data provided by the State of New Jersey or State data obtained by the Vendor {Contractor} in the performance of the Blanket P.O. must be stored, processed, and maintained solely in accordance with a project plan and system topology approved by the SCM. No 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 SCM. The Vendor {Contractor} must encrypt all data at rest defined as personally identifiable information by the State of New Jersey or applicable law, regulation or standard. The Vendor {Contractor} must not store or transfer State of New Jersey data outside of the United States.

Data Scope: All provisions applicable to State 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.

Data Re-Use: All State data must be used expressly and solely for the purposes enumerated in the Contract. Data must not be distributed, repurposed or shared across other applications, environments, or business units of the Vendor {Contractor}. No State data of any kind must be transmitted, exchanged or otherwise passed to other Vendors {Contractors} or interested parties except on a case-by-case basis as specifically agreed to in writing by the SCM.

Data Breach: Unauthorized Release Notification: The Vendor {Contractor} must 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 Vendor's {Contractor's} security obligations or other event requiring notification under applicable law ("Notification Event"), the Vendor {Contractor} must assume responsibility for informing the SCM within 24 hours and all such individuals in accordance with applicable law and to indemnify, hold harmless and defend the State of New Jersey, its officials, and employees from and against any claims, damages, or other harm related to such Notification Event. All communications must be coordinated with the State of New Jersey.

End of Blanket P.O. Data Handling: Upon termination/expiration of this Blanket P.O. the Vendor {Contractor} must first return all State data to the State in a usable format as defined in the Blanket P.O., or in an open standards machine-readable format if not. The Vendor {Contractor} must then erase, destroy, and render unreadable all Vendor {Contractor} copies of State data according to the standards enumerated in accordance with the State's most recent Information Disposal and Media Sanitation policy, currently 09-10-NJOIT ([www.nj.gov/it/ps](http://www.nj.gov/it/ps)) and certify in writing that these actions have been completed within 30 days after the termination/expiration of the Blanket P.O. or within seven (7) days of the request of an agent of the State whichever shall come first.

#### **5.10 NEWS RELEASES**

The Vendor {Contractor} is not permitted to issue news releases pertaining to any aspect of the services being provided under this Blanket P.O. without the prior written consent of the Director.

#### **5.11 ADVERTISING**

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

#### **5.12 LICENSES AND PERMITS**

The Vendor {Contractor} shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this Blanket P.O. Notwithstanding the requirements of the RFP, the Vendor {Contractor} shall supply the SCM with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to this Blanket P.O. award. All costs associated with any such licenses, permits, and authorizations must be considered by the Vendor {Bidder} in its Quote.

## **5.13 CLAIMS AND REMEDIES**

### **5.13.1 CLAIMS**

All claims asserted against the State by the Vendor {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.

### **5.13.2 REMEDIES**

Nothing in this Blanket P.O. 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.

### **5.13.3 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL BLANKET P.O. REQUIREMENTS**

In the event that the Vendor {Contractor} fails to comply with any material Blanket P.O. requirements, the Director may take steps to terminate this Blanket P.O. in accordance with the SSTC, authorize the delivery of Blanket P.O. items by any available means, with the difference between the price paid and the defaulting Vendor's {Contractor's} price either being deducted from any monies due the defaulting Vendor {Contractor} or being an obligation owed the State by the defaulting Vendor {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.

## **5.14 LIQUIDATED DAMAGES**

The State and the Vendor {Contractor} ("the Parties") agree that it would be extremely difficult to determine actual damages which the State of New Jersey will sustain as the result of the Vendor's {Contractor's} failure to meet the performance requirements. Any breach by the Vendor {Contractor} will negatively impact the State and deprive the State of the ability to timely provide services for government-funded individual assistance programs. Moreover, any breach by the Vendor {Contractor} may negatively impact the Employees and Retirees of the State, Local Governments and Local Education agencies and their families, and will affect the State's ability to provide certain services which are required under both State and Federal law. Provision of health care benefits to these eligible individuals and their families is of paramount importance, not only to the Division of Pensions and Benefits, but also to Local Employers electing to participate in the Programs. Therefore, the Parties agree that Liquidated Damages, as defined in Attachment D, are reasonable estimates of the damages the State of New Jersey may sustain from the Vendor's {Contractor's} performance deficiencies set forth within this section and are not to be construed as penalties.

The State has the sole discretion to determine whether liquidated damages should be assessed.

Assessment of liquidated damages shall be in addition to, and not in lieu of, such other remedies as may be available to the State of New Jersey. Except and to the extent expressly provided herein, the Division shall be entitled to recover liquidated damages under each section applicable to any given incident.

Please refer to Attachment D for the list of Performance Standards and Liquidated Damages.

The Vendor {Contractor} agrees that the Performance Standards will be measured and reconciled on a quarterly basis within 45 calendar days following the close of the quarter, with the exception of annual Performance Standards, which will be measured and reconciled within 45 calendar days following the close of the year. The Vendor {Contractor} agrees that Liquidated Damages shall be paid within 90 calendar days following the close of the measurement period without requiring any written request from the State, if the State has not otherwise deducted such funds from those owed to the Vendor {Contractor}.

#### **5.14.1 NOTIFICATION OF LIQUIDATED DAMAGES**

Upon determination that Liquidated Damages are to be assessed, the State will notify the Vendor {Contractor} of the assessment in writing. The availability of any period of cure will depend on the situation and will be in the sole discretion of the Director. The Director may, in the Director's sole discretion, elect to notify the Vendor {Contractor} that liquidated damages may be assessed so as to provide a warning, prior to assessing them in accordance with this section, but if the Director does not provide such a warning the Director is not precluded from assessing liquidated damages in accordance with this Blanket P.O. Notwithstanding any provision of any RFP to the contrary, should there be any conflict between this section and any provision of a RFP, this section shall supersede such RFP provision to the contrary.

#### **5.14.2 CONDITIONS FOR TERMINATION OF LIQUIDATED DAMAGES**

The continued assessment of liquidated damages may be terminated at the sole discretion of the Director, only if all of the following conditions are met:

- A. The Vendor {Contractor} corrects the condition(s) for which liquidated damages were imposed;
- B. The Vendor {Contractor} notifies the State in writing that the condition(s) has (have) been corrected; and
- C. The Director reviews and approves in writing the recommendation of State.

#### **5.14.3 SEVERABILITY OF INDIVIDUAL LIQUIDATED DAMAGES**

If any portion of the liquidated damages provisions is determined to be unenforceable by a New Jersey court in one (1) or more applications, that portion remains in effect in all applications not determined to be invalid and is severable from the invalid applications. If any portion of the liquidated damages provisions is determined to be unenforceable, the other provision(s) shall remain in full force and effect.

#### **5.14.4 WAIVER OF LIQUIDATED DAMAGES/LIQUIDATED DAMAGES NOT EXCLUSIVE REMEDY**

The continued assessment of liquidated damages may be waived in writing at the sole discretion of the Director. The waiver of any liquidated damages due to the State, shall constitute a waiver only as to such assessment of liquidated damages and not a waiver of any future liquidated damage assessments. Failure to assess liquidated damages or to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by the State.

#### **5.14.5 PAYMENT OF LIQUIDATED DAMAGES**

Once assessed pursuant to Section 5.14, liquidated damages will be deducted from any funds owed to the Vendor {Contractor} by the State, and in the event the amount due the Vendor {Contractor} is not sufficient to satisfy the amount of the liquidated damages, the Vendor {Contractor} shall pay the balance to the State of New Jersey within 30 calendar days of written notification of the assessment. If the amount due is not paid in full, the balance will be deducted from subsequent payments to the Vendor {Contractor}.

#### **5.15 ADDITIONAL WORK AND/OR SPECIAL PROJECTS**

The Vendor {Contractor} shall not begin performing any additional work or special projects without first obtaining the SCM's recommendation and the Director's written approval.

In the event of additional work and/or special projects, the Vendor {Contractor} must present a written Quote to perform the additional work to the SCM. The Quote should provide justification for the necessity of the additional work. The relationship between the additional work and the base Blanket P.O. work must be clearly established by the Vendor {Contractor} in its Quote.

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

The written Quote must detail the cost necessary to complete the additional work in a manner consistent with this Blanket P.O. The written price schedule must be based upon the hourly rates, unit costs or other cost elements submitted by the Vendor {Contractor} in the Vendor's {Contractor's} original Quote submitted in response to this RFP. Whenever possible, the price schedule should be a firm, fixed price to perform the required work. The firm, fixed price should specifically reference and be tied directly to costs submitted by the Vendor {Contractor} in its original Quote. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

Upon receipt and approval of the Vendor's {Contractor's} written Quote, the SCM shall forward same to the Director for the Director's written approval. Complete documentation from the Using Agency, confirming the need for the additional work, must be submitted. Documentation forwarded by the SCM to the Director must include all other required State approvals, such as those that may be required from the State of New Jersey's Office of Management and Budget and Office of Information Technology.

In the event the Vendor {Contractor} proceeds with additional work and/or special projects without the Director's written approval, it shall be at the Vendor's {Contractor's} sole risk. The State shall be under no obligation to pay for work performed without the Director's written approval.

## **5.16 MODIFICATIONS AND CHANGES TO THE STATE OF NJ STANDARD TERMS AND CONDITIONS (SSTC)**

### **5.16.1 INDEMNIFICATION**

Section 4.1 of the SSTC is supplemented with the following:

#### **4.1.1 LIMITATION OF LIABILITY**

The Vendor's {Contractor's} liability to the State for actual, direct damages resulting from the Vendor's {Contractor's} performance or non-performance, or in any manner related to this Blanket P.O., for any and all claims, shall be limited in the aggregate to 200 % of the total value of this Blanket P.O., except that such limitation of liability shall not apply to the following:

- a. The Vendor's {Contractor's} obligation to indemnify the State of New Jersey and its employees from and against any claim, demand, loss, damage, or expense relating to bodily injury or the death of any person or damage to real property or tangible personal property, incurred from the work or materials supplied by the Vendor {Contractor} under this Blanket P.O. caused by negligence or willful misconduct of the Vendor {Contractor};
- b. The Vendor's {Contractor's} breach of its obligations of confidentiality; and
- c. The Vendor's {Contractor's} liability with respect to copyright indemnification.

The Vendor's {Contractor's} indemnification obligation is not limited by but is in addition to the insurance obligations contained in Section 4.2 of the SSTC.

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

### **5.16.2 INSURANCE - PROFESSIONAL LIABILITY INSURANCE**

Section 4.2 of the SSTC regarding insurance is modified with the addition of the following section regarding Professional Liability Insurance.

- A. Professional Liability Insurance: The Vendor {Contractor} shall carry Errors and Omissions, Professional Liability Insurance, and/or Professional Liability Malpractice Insurance sufficient to protect the Vendor {Contractor} from any liability arising out the professional obligations performed pursuant to the requirements of this Blanket P.O. The insurance shall be in the amount of not less than \$5,000,000 and in such policy forms as shall be approved by the State. If the Vendor {Contractor} has claims-made coverage and subsequently changes carriers during the term of this Blanket P.O., it shall obtain from its new Errors and Omissions, Professional Liability Insurance, and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

### **5.16.3 INSURANCE - CYBER BREACH INSURANCE**

- A. Cyber Breach Insurance: The Vendor {Contractor} shall carry Cyber Breach Insurance in sufficient to protect the Vendor {Contractor} from any liability arising out of its performance pursuant to the requirements of this Blanket P.O. The insurance shall be in an amount of

not less than \$10,000,000 and 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.

#### **5.16.4 TERMINATION OF CONTRACT**

Section 5.7A of the SSTC is replaced with the following:

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 60 days written notice to the contractor;

Section 5.7B of the SSTC is replaced with the following:

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 30 days' notice to the contractor with an opportunity to respond; and

#### **5.16.5 DELIVERY REQUIREMENTS**

Section 5.12D of the SSTC is replaced with the following:

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, *and to the extent the delay is not caused by the State*, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

#### **5.17 ACCESSIBILITY COMPLIANCE**

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



{Contractor's} statements or information about accessibility as set forth in the then-current version of an applicable VPAT.

#### **5.18 ELECTRONIC PAYMENTS**

With the award of this Blanket P.O., the successful Vendor(s) {Contractor(s)} will be required to receive its payment(s) electronically. In order to receive your payments via automatic deposit from the State of New Jersey, complete and return the "Credit Authorization Agreement for Automatic Deposits (ACH Credits)" Form with an **original voided check or bank letter**. The form must include ABA number (routing or transit number), bank account number, and if the bank account is a checking or savings account. The form and instructions are located on the Office of Management & Budget's website at: <http://www.state.nj.us/treasury/omb/forms/index.shtml>. The completed form along with the required voided check or bank letter should be mailed or faxed to: Department of the Treasury, Office of Management and Budget, PO Box 221, 6<sup>th</sup> Floor – Room 674, Trenton, N.J. 08625-0221; fax: (609)-984-5210. To assist in identifying payments, the State offers Vendors {Contractors} access to the Vendor Payment Inquiry web application (VPI) which offers check stub information online. Contact the State of New Jersey at [AAIUNIT@treas.nj.gov](mailto:AAIUNIT@treas.nj.gov) to request access to this application.

#### **5.19 PROGRAM EFFICIENCY ASSESSMENT FOR STATE USING AGENCIES**

The Program Efficiency Assessment shall not be charged against the winning Vendor {Contractor} and therefore is not to be included in the Vendor's {Bidder's} pricing. The State Using Agencies shall be charged an assessment equal to one-quarter of one (1) percent (0.25%) of the value of all transactions under this Blanket P.O. This assessment is authorized by N.J.S.A. 52:27B-56 and N.J.A.C. 17:12-1.5, to maintain the State's procurement system at a level to meet industry standards of efficiency.

For purposes of this section, "transaction" is defined as the payment or remuneration to the Vendor {Contractor} for services rendered or products provided to the State pursuant to the terms of this Blanket P.O., including but not limited to the following: purchase orders, invoices, hourly rates, firm fixed price, commission payments, progress payments and contingency payments.

#### **5.20 CHANGE IN PLAN DESIGN**

During the term of the Blanket P.O., the State shall have the right to make any change to any Plan, including, without limitation, changes in Deductibles, Copayments, Plan maximums, and similar variables.

In the event of such a change, the parties shall meet to discuss the change and discuss the needed Change Orders to the Blanket P.O. For any such Change Order, there shall be no change in the Administrative Fee when the Vendor {Contractor} need only make changes in its Claim administration and other related systems, such as changes in Deductible, Copayment, Plan maximum or similar variable. Similarly, there shall be no change in the Administrative Fee for a change in Plan that requires a change to the open enrollment period, a special open or limited enrollment period, additional communications with Network Providers or reissuance of an Identification Card to some or all Members.

**IF MORE SUBSTANTIAL CHANGES ARE MADE TO A PLAN OR PLANS, SUCH THAT THE VENDOR {CONTRACTOR} SHALL MAKE MORE SUBSTANTIAL CHANGES TO ITS**

SYSTEMS, OR UNDERTAKE MORE WORK THAN SET FORTH IN THE PRIOR PARAGRAPH, THE PARTIES SHALL ENGAGE IN NEGOTIATIONS FOR A CHANGE TO THE ADMINISTRATIVE FEE FOR A PERIOD OF 30 CALENDAR DAYS. IF NO AGREEMENT IS REACHED AT THE CONCLUSION OF THE NEGOTIATIONS PERIOD, THE CHANGE IN THE PLAN DESIGN WILL BE TREATED AS A CHANGE IN LAW AND ADDRESSED PURSUANT TO SECTION 5.5 OF THE STANDARD TERMS AND CONDITIONS.

THE STATE RESERVES THE RIGHT TO SEPARATELY PROCURE SERVICES FROM ANOTHER VENDOR(S) {CONTRACTOR(S)} WHERE THE PLAN DESIGN CHANGES INVOLVE SUBSTANTIAL CHANGE TO THE CURRENT PLANS OR THE CREATION OF NEW PLANS.

## **6.0 QUOTE EVALUATION**

### **6.1 RIGHT TO WAIVE**

The Director may waive minor irregularities or omissions in a Quote. The Director also reserves the right to waive a requirement provided that the requirement does not materially affect the procurement or the State's interests associated with the procurement.

### **6.2 DIRECTOR'S RIGHT OF FINAL QUOTE ACCEPTANCE**

The Director reserves the right to reject any or all Quotes, or to award in whole or in part if deemed to be in the best interest of the State to do so.

### **6.3 STATE'S RIGHT TO INSPECT VENDOR (BIDDER) FACILITIES**

The State reserves the right to inspect the Vendor's {Bidder's} establishment before making an award, for the purposes of ascertaining whether the Vendor {Bidder} has the necessary facilities for performing the Blanket P.O.

The State may also consult with clients of the Vendor {Bidder} during the evaluation of Quotes. Such consultation is intended to assist the State in making a Blanket P.O. award that is most advantageous to the State.

### **6.4 CLARIFICATION OF QUOTE / STATE'S RIGHT TO REQUEST FURTHER INFORMATION**

After the submission of Quotes, unless requested by the State as noted below, Vendor {Bidder} contact with the State is not permitted.

After the Quotes are reviewed, one (1), some or all of the Vendors {Bidders} may be asked to clarify certain aspects of its Quote. 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 Quote.

Further, the Director reserves the right to request a Vendor {Bidder} to explain, in detail, how the Quote price was determined.

### **6.5 QUOTE EVALUATION COMMITTEE**

Quotes may be evaluated by an Evaluation Committee composed of members of the Division. Representatives from other governmental agencies may also serve on the Evaluation Committee. On occasion, the Evaluation Committee may choose to make use of the expertise of outside consultant(s) in an advisory role.

### **6.6 EVALUATION CRITERIA**

The following evaluation criteria categories, not necessarily listed in order of significance, will be used to evaluate Quotes 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.

#### **6.6.1 TECHNICAL EVALUATION CRITERIA**

Each criterion will be scored and each score multiplied by a predetermined weight to develop the Technical Evaluation Score.

- A. Personnel: The qualifications and experience of the Vendor's {Bidder's} management, supervisory, and key personnel assigned to the Blanket P.O., including the candidates recommended for each of the positions/roles required;
- B. Experience of Vendor {Bidder}: The Vendor's {Bidder's} documented experience in successfully completing Blanket P.O. of a similar size and scope in relation to the work required by this RFP; and
- C. Ability of Vendor {Bidder} to complete the Scope of Work and Administrative Requirements based on its Technical Quote: The Vendor's {Bidder's} demonstration in the Quote, inclusive of any applicable questionnaires and attachments, that the Vendor {Bidder} understands the requirements of the Scope of Work and Administrative Requirements, inclusive of the current and future goals, objectives, and vision of the State and presents an approach that would permit successful performance of the technical requirements of the Blanket P.O. including but not limited to demonstrating confidence in ability to provide a comprehensive solution for the State or partner with another Vendor {Bidder} to provide such a solution.

#### **6.6.2 VENDOR'S {BIDDER'S} STATE-SUPPLIED PRICE SHEET**

The Division will utilize a weighted consumption model to evaluate pricing based on the categories below. The pricing model will be date stamped and entered into the record before Quote opening.

- a. Administrative Fees: Administrative Fees as well as any additional charges for services listed in other sections of the Vendor's {Bidder's} Quote.
- b. Provider Discounts: The Vendor's {Bidder's} projected discounts as reflected in their guarantees and in the current discount values which reflects charge levels by procedure codes for physicians and which has information on facility charges before and after discounts.
- c. Financial Guarantees and Fees at Risk: The Vendor's {Bidder's} Financial Guarantee on projected management of plan costs.

#### **6.6.3 QUOTE DISCREPANCIES**

In evaluating Quotes, 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 correct sum of the column of figures.

#### **6.6.4 EVALUATION OF THE QUOTES**

After the Evaluation Committee completes its evaluation, it recommends to the Director for award the responsible Vendor(s) {Bidder(s)} whose Quote, 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 Section 6.6.5 below, the Director reserves the right to negotiate price reductions with the selected Vendor {Bidder}.

#### **6.6.5 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)**

After evaluating Quotes, the Division may establish a competitive range and enter into negotiations with one (1) Vendor {Bidder} or multiple Vendors {Bidders} within this competitive range. 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. Multiple rounds of negotiations may be conducted with one (1) Vendor {Bidder} or multiple Vendors {Bidders}. Negotiations will be structured by the Division to safeguard information and ensure that all Vendors {Bidders} are treated fairly.

Similarly, the Division may invite one (1) Vendor {Bidder} or multiple Vendors {Bidders} to submit a Best and Final Offer (BAFO). Said invitation will establish the time and place for submission of the BAFO. Any BAFO that does not result in more advantageous pricing to the State will not be considered, and the State will evaluate the Vendor's {Bidder's} most advantageous previously submitted pricing.

If required, after review of the BAFO(s), clarification may be sought from the Vendor(s) {Bidder(s)}. The Division may conduct more than one (1) round of negotiation and/or BAFO in order to attain the best value for the State.

After evaluation of Quotes and as applicable, negotiation(s), and/or BAFO(s), the Division will recommend, to the Director, the responsible Vendor(s) {Bidder(s)} whose Quote(s), conforming to the RFP, is/are most advantageous to the State, price, and other factors considered. The Director may accept, reject or modify the recommendation of the Division. The Director may initiate additional negotiation or BAFO procedures with the selected Vendor(s) {Bidder(s)}.

**Negotiations will be conducted only in those circumstances where it is deemed to be in the State's best interests and to maximize the State's ability to get the best value. Therefore, the Vendor {Bidder} is advised to submit its best technical and price Quote in response to this RFP since the State may, after evaluation, make a Blanket P.O. award based on the content of the initial submission, without further negotiation and/or BAFO with any Vendor {Bidder}.**

All contacts, records of initial evaluations, any correspondence with a Vendor {Bidder} related to any request for clarification, negotiation or BAFO, any revised technical and/or price Quotes, and related documents will remain confidential until a Notice of Intent to Award a Blanket P.O. is issued.

If the Division contemplates negotiation, Quote prices will not be publicly read at the Quote opening. Only the name and address of each Vendor {Bidder} will be publicly announced at the Quote opening.

### **6.6.6 POOR PERFORMANCE**

A Vendor {Bidder} with a history of performance problems may be bypassed for consideration of an award issued as a result of this RFP. The following materials may be reviewed to determine Vendor {Bidder} performance: Blanket P.O. cancellations for cause pursuant to Section 5.7(b) of the SSTC; information contained in Vendor performance records; information obtained from audits or investigations conducted by a local, state or federal agency of the Vendor's {Bidder's} work experience; current licensure, registration, and/or certification status and relevant history thereof; or its status or rating with established business/financial reporting services, as applicable. Vendors {Bidders} should note that this list is not exhaustive.

## 7.0 BLANKET P.O. AWARD

### 7.1 DOCUMENTS REQUIRED BEFORE BLANKET P.O. AWARD

#### 7.1.1 REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13 - N.J.S.A. 19:44A-20.25 (FORMERLY EXECUTIVE ORDER NO. 134), EXECUTIVE ORDER NO. 117 (2008) AND N.J.A.C. 17:12-5 ET SEQ.

- A. The State shall not enter into a Blanket P.O. to procure services or any material, supplies or equipment, or to acquire, sell, or lease any land or building from any Business Entity, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods;
- B. Prior to awarding any Blanket P.O. or agreement to any Business Entity, the Business Entity proposed as the intended Vendor {Contractor} of the Blanket P.O. shall submit the Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all qualifying contributions made by the Business Entity or any person or entity whose contributions are attributable to the Business Entity. The required form and instructions, available for review on the Division of Purchase and Property's website at <http://www.state.nj.us/treasury/purchase/forms/eo134/Chapter51.pdf>, shall be provided to the intended Vendor {Contractor} for completion and submission to the Division with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Blanket P.O., the intended Vendor {Contractor} shall submit to the Division, in care of the Division Procurement Specialist, the Certification and Disclosure(s) within five (5) business days of the State's request. The Certification and Disclosure(s) may be executed electronically by typing the name of the authorized signatory in the "Signature" block as an alternative to downloading, physically signing the form, scanning the form, and uploading the form. Failure to submit the required forms will preclude award of a Blanket P.O. under this RFP, as well as future Blanket P.O. opportunities; and
- C. Further, the Vendor {Contractor} is required, on a continuing basis, to report any contributions it makes during the term of the Blanket P.O., and any extension(s) thereof, at the time any such contribution is made. 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>, shall be provided to the intended Vendor {Contractor} with the Notice of Intent to Award.

The Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions form is located on the Division of Purchase and Property's [website](#).

#### 7.1.2 SOURCE DISCLOSURE REQUIREMENTS

Pursuant to N.J.S.A. 52:34-13.2, all Blanket P.O.s primarily for services awarded shall be performed within the United States, except when certified in writing a finding that a required

service cannot be provided by a Vendor {Contractor} or Subcontractor within the United States and the certification is approved by the State Treasurer. Also refer to Section 3.6 Service Performance within U.S. of the SSTC.

Pursuant to the statutory requirements, the intended Vendor {Contractor} of a Blanket P.O. primarily for services with the State of New Jersey must disclose the location by country where services under the Blanket P.O., including subcontracted services, will be performed. The Source Disclosure Form accompanies the subject RFP. FAILURE TO SUBMIT SOURCING INFORMATION WHEN REQUESTED BY THE STATE SHALL PRECLUDE AWARD OF A BLANKET P.O. TO THE INTENDED VENDOR {BIDDER}.

If any of the services cannot be performed within the United States, the Vendor {Bidder} shall state with specificity the reasons why the services cannot be so performed. The Director shall determine whether sufficient justification has been provided by the Vendor {Bidder} to form the basis of his or her certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

The Source Disclosure Form is located on the Division of Purchase and Property's [website](#).

#### **7.1.2.1 BREACH OF BLANKET P.O.**

A SHIFT TO PROVISION OF SERVICES OUTSIDE THE UNITED STATES DURING THE TERM OF THE BLANKET P.O. SHALL BE DEEMED A BREACH OF BLANKET P.O. If, during the term of the Blanket P.O., or any extension thereof, the Vendor {Contractor} or Subcontractor, who had upon Blanket P.O. award declared that services would be performed in the United States, proceeds to shift the performance of any of the services outside the United States, the Vendor {Contractor} shall be deemed to be in breach of its Blanket P.O. Such Blanket P.O. shall be subject to termination for cause pursuant to Section 5.7b.1 of the SSTC, unless such shift in performance was previously approved by the Director and the Treasurer.

#### **7.1.3 AFFIRMATIVE ACTION**

The intended Vendor {Contractor} 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. Intended Vendors {Contractors} 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 [http://www.nj.gov/treasury/purchase/forms/AA\\_%20Supplement.pdf](http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf).

#### **7.1.4 BUSINESS REGISTRATION**

In accordance with N.J.S.A. 52:32-44(b), a Vendor {Bidder} and its named Subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of the Treasury, Division of Revenue and Enterprise Services prior to the award of a Blanket P.O. See Section 4.4.2.1 of this RFP for further information.

#### **7.2 FINAL BLANKET P.O. AWARD**

Blanket P.O. award[s] will be made with reasonable promptness by written notice to that responsible Vendor(s) {Bidder(s)}, whose Quote(s), conforming to this RFP, is(are) most



advantageous to the State, price, and other factors considered. Any or all Quotes may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

### **7.3 INSURANCE CERTIFICATES**

The Vendor {Contractor} shall provide the State with current certificates of insurance for all coverages required by the terms of this Blanket P.O., naming the State as an Additional Insured. See Section 4.2 of the SSTC accompanying this RFP.

## **8.0 BLANKET P.O. ADMINISTRATION**

### **8.1 STATE CONTRACT MANAGER**

The State Contract Manager (SCM) is the State employee responsible for the overall management and administration of the Blanket P.O.

The SCM for this project will be identified at the time of execution of Blanket P.O. At that time, the Vendor {Contractor} will be provided with the SCM's name, department, division, agency, address, telephone number, fax phone number, and e-mail address.

#### **8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES**

For an agency Blanket P.O. where only one (1) State office uses the Blanket P.O., the SCM will be responsible for engaging the Vendor {Contractor}, assuring that Purchase Orders are issued to the Vendor {Contractor}, directing the Vendor {Contractor} to perform the work of the Blanket P.O., approving the deliverables and approving payment vouchers. The SCM is the person who the Vendor {Contractor} will contact **after the Blanket P.O. is executed** for answers to any questions and concerns about any aspect of the Blanket P.O. The SCM is responsible for coordinating the use of the Blanket P.O. and resolving minor disputes between the Vendor {Contractor} and any component part of the SCM's Department. The SCM is also responsible for notifying OIT and other appropriate parties of security and privacy violations or incidents. The SCM cannot modify the Blanket P.O., direct or approve a Change Order.

If the Blanket P.O. has multiple users, the SCM shall be the central coordinator of the use of the Blanket P.O. for all Using Agencies, while other State employees engage and pay the Vendor {Contractor}. All persons and agencies using the Blanket P.O. must notify and coordinate the use of the Blanket P.O. with the SCM.

#### **8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER**

Any Blanket P.O. user that is unable to resolve disputes with a Vendor {Contractor} shall refer those disputes to the SCM for resolution. Any questions related to performance of the work of the Blanket P.O. by Blanket P.O. users shall be directed to the SCM. The Vendor {Contractor} may contact the SCM if the Vendor {Contractor} cannot resolve a dispute with Blanket P.O. users.

## **9.0 STATE OF NEW JERSEY STANDARD TERMS AND CONDITIONS**

(Rev: 7/18/18)

### **1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT**

Unless the bidder/offeror is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall 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 the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for the State to consider. Any conflicting terms and conditions that the State is willing to accept will be reflected in an addendum to the RFP. The State's terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's Proposal that were not submitted through the question and answer process and approved by the State. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

#### **1.1 CONTRACT TERMS CROSSWALK**

<b><u>NJSTART Term</u></b>	<b><u>Equivalent Existing New Jersey Term</u></b>
Bid/RFP	RFP/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor	Bidder/Contractor

### **2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS**

The statutes, laws 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 bidder 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 bidder who shall provide it to the State.

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

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

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

## **2.2 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 Executive Order 151, August 28, 2009, attached) 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.

## **2.3 PREVAILING WAGE ACT**

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on [this proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [this 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 bidder'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 [this proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

## **2.4 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.

## **2.5 MACBRIDE PRINCIPLES**

The bidder 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.

## **2.6 PAY TO PLAY PROHIBITIONS**

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

- A. Make or solicit a contribution in violation of the statute;

- B. Knowingly conceal or misrepresent a contribution given or received;
- C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
- D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;
- E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;
- F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
- G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or
- H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

## **2.7 POLITICAL CONTRIBUTION DISCLOSURE**

The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at \$50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at <http://www.elec.state.nj.us/>.

## **2.8 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).

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;

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;

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, which may grant a waiver of this restriction upon application

of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

No 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;

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

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 may promulgate under paragraph 3c of Executive Order No. 189.

## **2.9 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.

## **2.10 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.

## **2.11 COMPLIANCE - STATE LAWS**

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

## **2.12 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.

### **3. 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 NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

#### **3.2 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 at (609) 292-9464.

#### **3.3 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.

### **3.4 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.

### **3.5 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.

### **3.6 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.

### **3.7 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 and the contractor shall be required to so certify.

### **3.8 DIANE B. ALLEN EQUAL PAY ACT**

Pursuant to N.J.S.A. 34:11-56.14, 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>.

## **4. INDEMNIFICATION AND INSURANCE**

### **4.1 INDEMNIFICATION**

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

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

#### **4.2 INSURANCE**

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services 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:

[cca.certificate@treas.nj.gov](mailto:cca.certificate@treas.nj.gov)

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

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

\$1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;

C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

1. \$1,000,000 BODILY INJURY, EACH OCCURRENCE;
2. \$1,000,000 DISEASE EACH EMPLOYEE; and
3. \$1,000,000 DISEASE AGGREGATE LIMIT.

a. This \$1,000,000 amount may have been raised by the RFP when deemed necessary by the Director; and

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

## **5. 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 CONTRACT AMOUNT**

The estimated amount of the contract(s), when stated on the RFP form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of the RFP or any contract entered into as a result of the RFP.

### **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 including pricing 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.

### **5.5 CHANGE IN LAW**

Whenever a change in applicable law or regulation affects the scope of work, the Director shall provide written notice to the contractor of the change and the Director's determination as to the corresponding adjusted change in the scope of work and 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 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 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.

### **5.6 SUSPENSION OF WORK**

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

### **5.7 TERMINATION OF CONTRACT**

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

- B. For Cause:
  - 2. 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
  - 3. 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 OR ASSIGNMENT**

- A. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws; and
- B. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

#### **5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE**

Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

#### **5.10 MERGERS, ACQUISITIONS**

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.

#### **5.11 PERFORMANCE GUARANTEE OF CONTRACTOR**

The contractor hereby certifies that:

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

#### **5.12 DELIVERY REQUIREMENTS**

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

### **5.13 APPLICABLE LAW AND JURISDICTION**

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

### **5.14 CONTRACT AMENDMENT**

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

### **5.15 MAINTENANCE OF RECORDS**

The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless a longer period is required by law. Such records shall be made available to the State, including the Comptroller, for audit and review.

### **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.

## **6. 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.

## **6.2 TAX CHARGES**

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

## **6.3 PAYMENT TO VENDORS**

- A. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;
- B. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or using agency on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid 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](http://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 Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.

## **6.4 OPTIONAL PAYMENT METHOD: P-CARD**

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



contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

#### **6.5 NEW JERSEY PROMPT PAYMENT ACT**

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

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

#### **6.6 AVAILABILITY OF FUNDS**

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

#### **7. TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS**

The provisions set forth in this Section 7 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 PROCUREMENT OF RECOVERED MATERIALS**

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 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.

- A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
  - 1. Paper and paper products listed in 40 C.F.R. 247.10;
  - 2. Certain vehicular products as listed in 40 CFR 247.11;
  - 3. Certain construction products listed in 40 C.F.R. 247.12;
  - 4. Certain transportation products listed in 40 C.F.R. 247.13;
  - 5. Certain park and recreation products, 40 C.F.R. 247.14;
  - 6. Certain landscaping products listed in 40 C.F.R. 247.15;
  - 7. Certain non-paper office products listed in 40 C.F.R. 247.16; and

8. Other miscellaneous products listed in 40 C.F.R. 247.17.

B. As defined in 40 CFR 247.3, "recovered material" means:

1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
  - a. Postconsumer materials such as --
    - i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
    - ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
  - b. Manufacturing, forest residues, and other wastes such as --
    - i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
    - ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
    - iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
    - iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
    - v. Fibers recovered from waste water which otherwise would enter the waste stream.

C. For contracts in an amount greater than \$100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed in subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, the contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

## **7.2 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."

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.

### **7.3 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 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be 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. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the 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"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

### **7.4 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 include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

### **7.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

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

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

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**7.7 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)**

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

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

## EXHIBIT A

### MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

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

#### GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

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

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

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

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

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

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 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](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

### 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.

### CONSTRUCTION CONTRACTS

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

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, 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.

## 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 <http://NJ.gov/JobCentralNJ>;
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.