



Request for Proposal 12-X-21272

For: Tourism Oriented Directional Signs New Jersey Dept. of Transportation

Event	Date	Time
Bidder's Electronic Question Due Date (Refer to RFP Section 1.3.1 for more information.)	10/13/11	5:00 PM
Bid Submission Due Date (Refer to RFP Section 1.3.2 for more information.)	10/28/11	2:00 PM

Dates are subject to change. All changes will be reflected in Addenda to the RFP posted on the Division of Purchase and Property website.

	Status	Category
Small Business Set-Aside	<input type="checkbox"/> Not Applicable	
	<input type="checkbox"/> Entire Contract	<input checked="" type="checkbox"/> I
	<input type="checkbox"/> Partial Contract	<input checked="" type="checkbox"/> II
	<input checked="" type="checkbox"/> Subcontracting Only	<input checked="" type="checkbox"/> III

RFP Issued By

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

Using Agency

State of New Jersey
Department of Transportation
Office of Outdoor Advertising Services

Date: September 26, 2011

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1.0 INFORMATION FOR BIDDERS

1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury on behalf of the New Jersey Department of Transportation (DOT), Office of Outdoor Advertising Services (OAS). The purpose of this RFP is to solicit bid proposals for the erection, maintenance and administration of the Tourist Oriented Directional Signs (TODS) program.

The purpose of this RFP is to select a CONTRACTOR which will administer and implement the TODS program for the New Jersey Department of Transportation (Department).

Throughout this Request for Proposal (RFP), the bidder awarded a contract for TODS is also referred to as the "CONTRACTOR" or "VENDOR".

The selected CONTRACTOR will be required to make certain payments, both lump sum and percent of gross receipts. Be advised that this project does not include any payments from the Department of the CONTRACTOR.

The CONTRACTOR will be awarded a Tourist Oriented Directional Signing Contract for a TEN (10) YEAR PERIOD. The continuation of any contract entered into as a result of this RFP shall be contingent upon the continuation of the DOT's authority to advance the TODS program.

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

The NJ Standard Terms and Conditions version 05/13/10 will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFP and should be read in conjunction with them unless the RFP specifically indicates otherwise.

1.2 BACKGROUND

This is a reprocurement of the Tourism Oriented Directional Signing (TODS) term contract, presently due to expire on December 31, 2011. Bidders interested in the current contract pricing information may review the current contract (Enter T-1787 Contract # 89549) at <http://www.state.nj.us/treasury/purchase/contracts.htm>.

The intent of the TODS program is to offer directional signing to tourist oriented facilities that are not located on state highways, in order to enhance motorist safety and support tourism in the State. TOD signs are official highway signs that provide motorists with identification and directional information to eligible tourist oriented venues located off of the state highway system. Because they are official highway signs, TOD signs must conform with the Manual on Uniform Traffic Control Devices (MUTCD). TOD signing is provided by the display of individual sign panels on an Intersection Approach Sign which is located within the right of way of portions of selected state highways. The list of these highways is at <http://www.state.nj.us/transportation/business/signs/tods/routes.shtm>. This link is also provided in RFP 1.3.6 - Document Review.

As described more completely in the RFP, all TODS facilities must derive a major portion of their income or visitors from motorists not residing in the immediate area. Eligible TODS facilities may be commercial or non-commercial. Restaurants, wineries, museums, antique stores and marinas are typical existing participants in the TODS program.

It is also the intent of the TODS program that it be self supporting and produce revenue for the State of New Jersey. The successful bidder will be required to make monthly payments to the State. Bidders will be asked to indicate the percentage of the monthly gross revenue which they will pay. In addition, the successful bidder will be required to make the first of four lump sum payments of \$50,000 each within ten (10) days of award of the contract. The second, third and fourth lump sum payments of \$50,000 each will be required within ten (10) days of the second, third and fourth annual anniversary date of the award of the contract.

The TODS program has produced annual gross revenue for the last 3 fiscal years (FY) as shown in the following table:

<i>Fiscal Year</i>	<i>Gross Revenue Collected</i>
July 1, 2008 through June 30, 2009	\$66,466.50*
July 1, 2009 through June 30, 2010	\$479,333.42
July 1, 2010 through June 30, 2011	\$472,834.09

*Note: Starting in fiscal year 2008-2009, revenue for service to be rendered in the following fiscal year (i.e. renewal of existing contracts for FY 2009-2010) is shown in that following fiscal year. Thus, contracts renewed in FY 2008-2009 for the contract year FY 2009-2010 are shown in FY 2009-2010.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

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

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

Bidders must not contact the Using Agency directly, in person, by telephone or by email, concerning this RFP.

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

1.3.2 SUBMISSION OF BID PROPOSAL

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

BID RECEIVING ROOM – 9TH FLOOR
PURCHASE BUREAU

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

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

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

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

1.3.3 ELECTRONIC BIDDING (EBID)

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

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

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

Instructor-Led Training Sessions:

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

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

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

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

On-line Training Sessions:

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

1.3.4 DOCUMENT REVIEW

The following are publicly available documents that bidders need to review in order to prepare and submit accurate and comprehensive bid proposals:

- <http://www.state.nj.us/transportation/business/signs/tods/routes.shtml>
- <http://www.state.nj.us/transportation/eng/documents/RDM/>
- <http://mutcd.fhwa.dot.gov/>
- <http://www.state.nj.us/transportation/eng/specs/2007/Division.shtml>
- <http://www.state.nj.us/transportation/eng/CADD/E/index.shtml#StandardDetailsEnglish>
- <http://www.state.nj.us/transportation/about/rules/documents/16-41DTODS.pdf>

1.4 ADDITIONAL INFORMATION

1.4.1 ADDENDA: REVISIONS TO THIS RFP

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

ALL RFP ADDENDA WILL BE ISSUED ON THE DIVISION OF PURCHASE AND PROPERTY WEB SITE. TO ACCESS ADDENDA, THE BIDDER MUST SELECT THE BID NUMBER ON THE WEB PAGE AT <http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml>.

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

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

1.4.2 BIDDER RESPONSIBILITY

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

1.4.3 COST LIABILITY

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

1.4.4 CONTENTS OF BID PROPOSAL

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

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

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

1.4.5 BID OPENING

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

1.4.6 PRICE ALTERATION

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

1.4.7 BID ERRORS

In accordance with N.J.A.C. 17:12-1.11, "Bid Errors," a bidder may withdraw its bid as described below.

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

If, after bid opening but before contract award, a bidder discovers an error in its proposal, the bidder may make a written request to the Supervisor of the Bid Review Unit for authorization to withdraw its proposal from consideration for award. Evidence of the bidder's good faith in making this request shall be used in making the determination. The factors that will be considered are that the mistake is so significant that to enforce the contract resulting from the proposal would be unconscionable; that the mistake relates to a material feature of the contract; that the mistake occurred notwithstanding the bidder's exercise of reasonable care; and that the State will not be significantly prejudiced by granting the withdrawal of the proposal. Note: A PB-36 complaint form may be filed and forwarded to the Division's Contract Compliance and Audit

Unit for handling. A record of the complaint will also be maintained in the Division's vendor performance file for evaluation of future bids submitted.

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

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

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

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

1.4.8 JOINT VENTURE

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

1.4.9 RECIPROCITY FOR JURISDICTIONAL BIDDER PREFERENCE

In accordance with N.J.S.A. 52:32-1.4 and N.J.A.C. 17:12-2.13, the State of New Jersey will invoke reciprocal action against an out-of-State bidder whose state or locality maintains a preference practice for its bidders. For states having preference laws, regulations, or practices, New Jersey will use the annual surveys compiled by the Council of State Governments, National Association of State Purchasing Officials, or the National Institute of Governmental Purchasing to invoke reciprocal actions. The State may obtain additional information as it deems appropriate to supplement the stated survey information.

The bidder may submit information related to preference practices enacted for a local entity outside the State of New Jersey. This information may be submitted in writing as part of the bid 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 bidder, etc. It is the responsibility of the bidder to provide documentation with the bid proposal or submit it to the Director, Division of Purchase and Property within five (5) working days of the public bid opening. Written evidence for a specific procurement that is not provided to the Director within five (5) working days of the public bid opening will not be considered in the evaluation of that procurement, but will 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 contract awarded or order placed as result of this RFP.

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

All-Inclusive Hourly Rate – An hourly rate comprised of all direct and indirect costs including, but not limited to: 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.

Amendment – A change in the scope of work to be performed by the contractor. An amendment is not effective until it is signed by the Director, Division of Purchase and Property.

Bidder – An individual or business entity submitting a bid proposal in response to this RFP.

Contract – This RFP, any addendum to this RFP, and the bidder's proposal submitted in response to this RFP, as accepted by the State.

Contractor – The bidder awarded a contract resulting from this RFP, also may be known as "Vendor"

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

Division – The Division of Purchase and Property

Evaluation Committee – A committee established by the Director to review and evaluate bid proposals submitted in response to this RFP and to recommend a contract 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. No additional fees or costs shall be paid by the State unless there is a change in the scope of work.

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

May – Denotes that which is permissible, not mandatory.

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

Request for Proposal (RFP) – This document which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of the using Agencies as identified herein.

Shall or Must – Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of a bid proposal as materially non-responsive.

Should – Denotes that which is recommended, not mandatory.

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

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

State – State of New Jersey.

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

Task – A discrete unit of work to be performed.

Using Agency[ies] – The entity[ies] for which the Division has issued this RFP and will enter into a contract.

2.2 CONTRACT-SPECIFIC DEFINITIONS

Agri-tourism” means a style of tourism that offers activities which occur on a farm and are related to the agricultural use of the farm site, including, but not limited to: on-farm sales of agricultural products directly to the consumer, such as roadside farm markets, community farm markets, pick-your own operations, you-cut Christmas trees or wineries; educational activities and tours; entertainment, such as corn mazes, hay rides, seasonal festivals, petting zoo, or haunted barns; and outdoor recreation and lodging. This definition recognizes that agriculture includes a broad range of activities including, but not limited to apiaries, aquaculture, fruits and vegetables, grain, dairy, poultry, livestock, equine activities, nurseries and greenhouses.

Amusement park” means a commercially operated enterprise that offers rides, games, and other similar forms of entertainment. The term includes theme parks and water parks.

Civic Area means a particular public district, plaza or place which has been officially designated by the State, county or municipality such as, but not limited to, a defined main street, an historic village or neighborhood, a downtown business district, a town center, an individual park, or a Transit Village.

Commissioner means the Commissioner of the New Jersey Department of Transportation.

Community farm market means a market that exists primarily for the direct sale of locally produced agricultural products by one or more multiple producers to the general public.

Conventional road means a multi-lane or divided State highway where direct access is provided to adjoining properties. The term excludes freeways, expressways, limited access highways, service roads to a limited access highway, interchange ramps, urban streets and any highway segment having an access classification of AL(“Access Level”)-1 by the State Highway Access Management Code, N.J.A.C. 16:47-1.1 et seq.

Department means the New Jersey Department of Transportation.

Golf Course means a tract of land designed for standard play, par-3 play and/or driving ranges,

but excluding a miniature golf course.

Gross Revenue means the contractor's receipts of all fees charged to participants in accordance with section 3.1.18 of this RFP, but excluding any receipts for Specific Service Sign Trailblazer fees charged through the LOGO program pursuant to RFP 3.1.18.4 and excluding any credits given in accordance with RFP 3.1.18.5.

Historic site means any district, site, building, structure or object designated by the United States, the State of New Jersey, the county or the municipality where the property is located as being significant in American history, architecture, archaeology, engineering or culture.

Interchange means a system of interconnecting roadways that provides for traffic movement between two or more highways that do not intersect at grade.

Intersection approach sign means the TODS sign which is erected on a conventional road for the purpose of displaying the panels that describes and identifies the participating facility and provides directional information.

Interstate highway means a highway constructed within this State and approved by the Secretary of Transportation of the United States as an official portion of the National System of Interstate and Defense Highways pursuant to the provisions of Title 23 of the United States Code.

Limited Access Highway means a highway especially designed for through traffic over which abutters have no easement or right of light, air or direct access, by reason of the fact that their property abuts such right of way, including any highway segment classified as AL-1 by the State Highway Access Management Code, N.J.A.C. 16:47-1.1 et seq.

Manual On Uniform Traffic Control Devices or **MUTCD** means the manual periodically published and revised by the United States Department of Transportation, Federal Highway Administration, available from the Superintendent of Documents, U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401 or online at <http://mutcd.fhwa.dot.gov/>.

Non-Profit Organization means an organization that has received an Internal Revenue Service determination that it is tax exempt under 26 U.S.C. §501(c)(3) or a successor provision, or any organization with a similar tax exemption.

Natural attraction means a publicly or privately owned natural or naturalized place of scenic or natural importance as designated by the State or the county or municipality in which it is located. Natural attractions are facilities including, but not limited to, caves, hunting areas, fishing areas, wildlife management areas, bird watching areas, riding trails and hiking trails.

Park means a natural or naturalized area of land for the enjoyment of the public as designated by the State or the county or municipality in which it is located. As used in these regulations, the term excludes "theme park," "amusement park," and "athletic park".

Public telephone means a coin or card operated telephone on site or in the immediate vicinity and which is available for public use during all business hours.

Re-fabrication and re-installation means the work expended to fabricate and install a new sign panel for an intersection approach sign where the facility has elected to change the design of the panel. Re-fabrication and installation does not mean the work expended to replace a sign panel that has been knocked-down, damaged or is replaced as part of customary maintenance.

Restaurant means a retail business which, as its primary use, prepares and sells meals, snacks or refreshments for immediate consumption. A business which, as its primary use, sells groceries or pre-packaged food items including, but not limited to, convenience stores, supermarkets or food courts, is not considered a restaurant.

Straight-ahead sign means an intersection approach sign that identifies a facility that has direct access to the conventional road on which the sign is located.

Trailblazer sign means a TOD sign which is erected on roads leading away from an intersection of a conventional road which describes the facility and provides directional information.

Transit Village means any facility so designated by the Commissioner of Transportation.

Vendor means a contractor procured by the Department to implement TODS, pursuant to N.J.S.A. 27:7-21.12(a) and (b).

Village means any such civic place so designated by the State, county or municipality in which it is located.

Water-oriented business means a facility whose primary purpose is to provide services or activities that are dependent on a body of water such as a bay, lake, ocean, or river. A water-oriented business includes, but is not limited to, the rental of watercraft such as boats, canoes, kayaks or jet-skis; the conduct of recreational activities such as tours, para-sailing, group fishing or chartered fishing; or the provision of a boating facility to the general public, such as a marina, dock or boat launch. A water-oriented business does not include a facility whose purpose is the commercial sale of goods, merchandise or equipment that can be used on water, such as the sale of clothing, boats, jet-skies, bait, or other water related items; nor does it include a boating facility that is not available for public use.

3.0 SCOPE OF WORK

3.1 CONTRACTOR'S RESPONSIBILITIES

Subject to the terms and conditions set forth in this proposal and upon written contract execution, DOT grants the exclusive right to the contractor to construct signs and to operate the PROGRAM. The term of this agreement shall be ten years, and will commence on the date of the award. The agreement may, however, be terminated or extended pursuant to the terms as set forth herein, On its part, the contractor shall have the following responsibilities and duties.

There is no "buy-out" provision in the specifications. How the contractor amortizes costs over the life of the contract is a business decision the contractor must make.

3.1.2 PROMOTION OF THE PROGRAM

Throughout the duration of the Contract, the contractor shall promote the PROGRAM in a professional and businesslike manner. Promotion includes the erection and maintenance of TOD signs at all eligible interchanges/intersections along routes listed at <http://www.state.nj.us/transportation/business/signs/tods/routes.shtm> and the diligent multi-faceted and coordinated effort to increase participation in the TODS program.

3.1.3 WEBSITE

The contractor shall maintain its own web site which shall display the contractor's contact

information, explain the TODS program, provide answers to frequently asked questions, display information on fees and costs, and allow people to contact the contractor and submit applications on line.

3.1.4 EQUAL ACCESS TO THE PROGRAM

The contractor must provide equal access to the Program to participating facilities and all prospective participants, except as their participation may be limited by the Qualifications For Participants (Section 3.1.14), General Requirements for Eligibility (Section 3.1.15) and General Conditions For Participation (Section 3.1.16) of the Program. No facility may discriminate or be discriminated against with regard to race, color, religion, sex or national origin.

3.1.5 APPROVALS REQUIRED PRIOR TO ENTRY INTO STATE RIGHT-OF-WAY

After award of contract and prior to the start of construction, the contractor shall submit one complete set of plans to the DOT program administrator. The plans shall include the following, but are not limited to:

- A. Existing utility locations marked on each site plan.
- B. Traffic control plans for each interchange/intersection.
- C. Placement of all signs, indicating offset from highway (GPS positioning).

Upon receipt of the plans, the program administrator will forward the information to the appropriate Regional Maintenance Engineer and to the Bureau of Traffic Engineering and Safety Programs. The Bureau of Traffic Engineering and Safety Programs ("Bureau") will review the plans with respect to any proposed sign and its placement. The Bureau shall issue its approval via email. The contractor shall request this approval from the Project Manager.

After approval by the Bureau and no less than seventy-two (72) hours prior to its proposed entry into the ROW to erect the sign, the contractor shall notify the program administrator, the Regional Maintenance Engineer and the Department's Traffic Operations unit. In addition, the contractor shall advise the local police department of the intended work.

All lane closures must be approved for each instance of closure by the entity that has jurisdiction over the highway. DOT reserves the responsibility to deny a lane closure where, in its engineering judgment, it is prudent or necessary to do so. Traffic control shall be in accordance with the applicable DOT Traffic Control Details. Lane closures shall not be permitted after 6:00am of the day before, during and until 8:00pm of the day after the following holidays or holiday weekend periods: New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Thanksgiving and Christmas.

Within ninety (90) days of completion of the construction of all signs panels within an interchange or intersection, the contractor shall submit to the program administrator two copies of the as-built plans of the contractor's erected structures within that intersection or interchange.

3.1.6 ADVISING DOT OF SIGNIFICANT ISSUES, ACCIDENTS & EMERGENCIES

The contractor shall advise DOT of all actual and potential problems which could threaten public safety, impair the contractor's ability to carry out its contractual responsibilities, or adversely impact DOT's interests in the PROGRAM. These actual and potential problems include, but are not limited to, traffic accidents involving TODS signs; accidents involving the contractors'

employees or contractors that are work-related to the TODS program; actual or threatened legal actions (whether civil, criminal or administrative) against the contractor's employees, its contractors, the DOT or the State of New Jersey. The contractor shall advise DOT of any action that it has taken or anticipates taking to resolve such problems.

Notice of problems which are of an emergent matter shall be given to the program administrator, manager or other responsible person as determined by the contractor by telephone and, subsequently, in writing.

Notice of non-emergent matters shall be given to the manager and program administrator in writing.

Any accidents or injuries, or damage to real or personal property involving the contractor or any other party or the signs during the implementation of the PROGRAM, whether vehicular, employment, or otherwise, shall be reported to DOT in sufficient detail for DOT to understand the event and to determine if an appropriate response was taken.

3.1.7 PERIODIC REPORTS TO DOT

The contractor shall furnish DOT with monthly, quarterly and annual reports as described herein. All reports shall be signed by an officer of the contractor. The contractor shall also submit such other reports as DOT may reasonably require. All reports shall be submitted to the program administrator unless otherwise stated.

The reports shall contain the information listed in sections 3.1.7.1 through 3.1.7.7 below. The contractor shall also include such other information as DOT may reasonably require.

All reports shall be based on a fiscal year which begins on July 1 and ends on the following June 30. Unless otherwise agreed to, monthly and quarterly reports shall be submitted on the 10th business day of the subsequent month or quarter. Annual reports shall be submitted no later than August 1 after the close of the fiscal year. Reports shall be submitted in the form of an original paper copy which shall be delivered by regular U.S. mail or hand courier. Reports shall also be submitted on a computer disk or in electronic form as DOT shall determine.

3.1.7.1 MONTHLY PAYMENT REPORT

The purpose of the Monthly Payment Report is to show the payments due and payments made to the State.

This report shall chart each monthly payment required by RFP 3.1.11.2, the gross revenue received by the contractor in each month and in the year, the monthly payments required and paid pursuant to RFP 3.1.11.2, and the date and amount of all monthly payments to the State for the year.

3.1.7.2 MONTHLY REVENUE REPORT

The purpose of the Monthly Revenue Report is to show the contractor's monthly gross revenue from the TODS program.

The Monthly Revenue Report shall itemize all payments received for the month. Payments shall be itemized by route, crossroad, facility name, customer name, payment amount, date of invoice

and date of payment. The Report shall sum all payments received to state the monthly gross revenue.

3.1.7.3 QUARTERLY REPORT OF ACTIVITY

The purpose of the Quarterly Report of Activity is to identify all changes that have occurred in the Program within the quarter, such as new contracts that have been entered, new signs that have been installed and existing contracts that have been cancelled or terminated in that quarter.

The Report shall segregate the changes according to their particular type. For example all new contracts shall be listed separately, all new installations shall be listed separately, all cancelled contracts shall be listed separately, etc. Changes for the following events shall be reported: new contracts, new installations, new cancellations, signs removed, non-renewals of contracts, temporary closures, signs covered up, applications approved, applications denied and other events that DOT may reasonably determine shall be reported.

The report shall itemize the changes by county, route, township and mile marker. For each item, the report shall indicate the crossroad, facility name (as shown on the panel), customer name, the general and specific type of facility as described in RFP 3.1.14.2 (i.e. a general site is "cultural"; the particular type is "aquarium"), the dates of contract, installation, removal, covering, uncovering, repairs made, inspections made and pertinent comments

3.1.7.4 QUARTERLY STATUS REPORT,

The purpose of the Quarterly Status Report is to document the current status of all signs in the PROGRAM. It shall be a cumulative report. That is, it shall update the report of the prior quarter such that the fourth quarterly report shall be the status of all signs at the end of the fiscal year.

The report shall show the following information about each intersection approach sign: the facility name (as shown on the panel), the customer name, customer contact information, the number of Intersection Approach Signs and trailblazer signs, the general and specific type of facility as described in RFP 3.1.14.2 (i.e. a general site is "cultural"; the particular type is "aquarium"), the dates of contract, installation, invoice, and payment, the amount of payment, any amounts due, any credits owed by the contractor. The report shall list all signs by county, route, township and mile marker.

3.1.7.5 ANNUAL MAINTENANCE REPORT

The purpose of the annual maintenance report is to state whether inspections were completed as required by RFP 3.1.21 and whether needed repairs were completed.

The report shall state whether all signs were visually inspected quarterly to determine that they were in operation; whether all mountings and supports were inspected once during the year and determined to be satisfactory; and whether the retro-reflective properties of the signs were inspected once during the year and determined to be satisfactory. The report shall also specify which repairs, if any, have not satisfactorily been completed. If any signs were not inspected as required or if any repairs have not been satisfactorily completed, the report shall include an explanation and include a plan for completion of this work.

The contractor is required to maintain logs of inspections and repairs pursuant to RFP 3.1.21.1

3.1.7.6 ANNUAL FINANCIAL REPORT

An annual financial report shall be submitted within 90 days of the end of the fiscal year or on

such other date as may be mutually agreed upon. The report shall be based on an audit of the contractors's receipts from all contracts with participants in the program. The report shall state the amount of gross revenue received by the contractor, the amount of payments that are due to the Department pursuant to this contract and the amount of payment made to the Department by the contractor. It shall also offer an opinion as to whether the Department received the full amount of the payment due as required by the contract. This report shall be prepared by a certified public accountant who is certified to practice in New Jersey.

3.1.7.7 TAX REPORTS:

The contractor shall provide DOT with evidence of filing federal and State Tax deposits, report filings, and other payments, on a quarterly basis, including employee income tax and Social Security tax deposits, unemployment and labor taxes.

3.1.8 CHANGE OF CONTRACTOR'S RESIDENCE

The contractor shall advise the program administrator by certified mail if it changes its residence or its place for legal service at least 15 days in advance of the change. The contractor shall notify the Program administrator two work days in advance of a change of its FAX phone number or its business phone number.

3.1.9 BOOKS AND RECORDS

As set forth herein, the contractor shall maintain for at least five years after contract expiration, and make the following records available to DOT upon request: all business sign requests, agreements and evidence of each agreement and all receipts. All records must be offered to DOT by certified mail thirty (30) days before destruction. All computerized information must be backed-up electronically. The back up files must be stored at a separate, secure, and safe location within the boundaries of the State of New Jersey. A standardized agreement shall be entered into with each business entity which joins the PROGRAM to have business sign(s) displayed. All original documents and records must be maintained safe from harm as set forth herein. No records may be destroyed if there are any legal actions pending or filed.

Receipts shall be itemized monthly, by individual business sign (an individual restaurant, or gas station), by route, direction, interchange, municipality and by county and also separately by individual purchaser of business sign leases, by individual business sign and by route.

Double entry bookkeeping and journals of accounts shall be maintained. Records may be maintained on a computerized format so long as they are backed up daily and an audit trail is maintained for all receipts, transfers, and disbursements.

No cash or miscellaneous transactions or accounts shall be permitted. Itemized receipts shall be given for all money received. All payments must be by check to the Department.

3.1.10 PERMITS, LICENSES AND TAXES

The contractor shall procure all permits and licenses, pay all charges, fees, and taxes; and give all notices necessary and incidental to the operation and administration of the PROGRAM. When requested, the contractor shall furnish DOT with evidence indicating that it has complied with the permit, license and tax requirements.

3.1.11 PAYMENTS TO THE DEPARTMENT

3.1.11.1 LUMP SUM PAYMENT

Within ten (10) business days of the date of award of a contract to the contractor, the contractor shall make payment the first of four payments of Fifty Thousand Dollars (\$50,000.00). Each of the following payments of \$50,000 will be due within ten (10) business day of the second, third and fourth annual anniversaries of the date of award of the contract for a total of \$200,000 payable over the four year period. If the State has not received the payment the Department may at its option, disqualify the contractor from further participation in the PROGRAM. In the event that the Department terminates the contract for cause, this payment is not refundable for any reason. If the contract is terminated for any reason other than cause, this payment shall be refunded to the contractor on pro rata basis.

3.1.11.2 MONTHLY PAYMENT

The contractor shall make a monthly payment to the State in an amount equal to a specified percentage of the gross revenue that the contractor has received in each month. This shall be as specified by the contractor in its bid proposal to this RFP; but, in no event shall that percentage be less than twenty five percent (25%). The monthly payment shall be paid within fifteen (15) days after the end of the month.

3.1.11.3 METHOD OF MAKING PAYMENTS

All payments shall be made by wire transfer. A receipt of the transaction and payment shall be sent to the Program administrator. A receipt of that payment shall be sent to the Program administrator.

3.1.12 ANNUAL SURETY

The contractor must annually provide \$50,000 surety to the State, as described in RFP Section 5.13.4 for the first four years of the Contract. The replacement surety for the second, third and fourth years must be in place at least 30 days prior to the start of the that year of the Contract.

3.1.13 SCOPE AND PURPOSE OF THE TODS PROGRAM

The program will be implemented only on conventional roads and only on those routes and route segments which the Department has identified as available for TODS signage. A list of the routes is available at <http://www.state.nj.us/transportation/business/signs/tods/routes.shtm>.

The program will not be available on freeways, expressways, interstate highways, limited access highways, service roads to limited access highways, interchanges, or conventional roads in urban areas.

The TODS program shall comply with the standards of the Manual on Uniform Traffic Control Devices (MUTCD) and is guided by sound engineering judgment.

The TODS program shall be operated in compliance with all pertinent laws and regulations as are or may be enacted, including all amendments, interpretations or determinations of law thereto.

In constructing and installing signs and operating the PROGRAM, the contractor shall be governed by and adhere to the following programmatic and/or design documents, as they are currently existing or as they may subsequently be amended:

- Manual on Uniform Traffic Control Devices (MUTCD), in its entirety and Part II, Section I, Tourist Oriented Directional Signs in particular.
- DOT Roadway Design Manual
- DOT Standard Roadway Construction and Traffic Control Details,
- DOT Standard Specifications For Road and Bridge Construction, 2007
- DOT Proposed New Rules, N.J.A.C. 16:41D, Tourist Oriented Directional Signs
- Program (TODS), as published in the New Jersey Register, March 7, 2011

It is recommended that perspective bidders acquire the above listed documents for their review and use. Links to websites for each document are provided in RFP Section 1.3.6 .

3.1.14 QUALIFICATIONS FOR PARTICIPANTS

3.1.14.1 QUALIFICATIONS FOR PARTICIPATING FACILITIES

Each facility shall satisfy the following qualifications in order to be eligible to participate in the TODS program:

A facility shall have 50 percent or more of their customers live outside the immediate area or shall receive 50 percent of their annual sales from people who live outside the immediate area. For the purposes of this RFP, the immediate area is the area within 10 miles of the facility as measured from the driveway of the facility to the centerline of the nearest State highway.

A facility shall be a place which is primarily of interest to tourists including, but not limited to, cultural sites, commercial tourism sites, recreational sites and civic areas.

3.1.14.2 TYPES OF FACILITIES THAT ARE ELIGIBLE TO PARTICIPATE

The following types of facilities are eligible to participate in the TODS program:

Cultural Sites including, but not limited to:

- a. Aquariums
- b. Arts or Crafts Centers
- c. Arboretums or Botanical Gardens
- d. Concert Halls, Amphitheatres, Theatres, Arenas, Auditoriums or Performing Arts Centers
- e. Historic Sites
- f. Museums
- g. Zoos

Commercial Tourism Sites including, but not limited to:

- a. Agri-tourism
- b. Antiques stores
- c. Art or craft galleries
- d. Breweries
- e. Wineries
- f. Lodging, including Motels, Hotels and Bed & Breakfasts
- g. Flea markets
- h. Fuel Stations, including truck stops

- i. Restaurants
- j. Outlet malls

Recreational Sites; including, but not limited to:

- a. Amusement parks
- b. Boat Landings and Marinas
- c. Camping Facilities
- d. Equestrian Centers or Stables
- e. Fairgrounds
- f. Golf Courses
- g. Parks & Natural Attractions
- h. Skating rinks (including ice, roller and in-line skating)
- i. Ski Resorts or ski slopes
- j. Speedways, Racetracks
- k. Water-oriented businesses

Civic Areas including, but not limited to:

- a. Main Streets
- b. Town Centers
- c. Transit Villages
- d. Villages

3.1.14.3 TYPES OF FACILITIES THAT ARE INELIGIBLE TO PARTICIPATE

The following types of facilities are ineligible to participate in the TODS program:

Businesses:

- a. Adult entertainment facilities
- b. Automobile dealers
- c. Banks
- d. Day care or Child Learning Center facilities
- e. Funeral homes
- f. General commercial sales
- g. Movie theaters
- h. Pharmacies
- i. Supermarkets
- j. Bars or taverns
- k. Truck terminals

Governmental entities:

- a. Jails, prisons and juvenile detention facilities
- b. Post offices
- c. Government offices and facilities

Medical & health facilities:

- a. Health clubs
- b. Hospitals, clinics or treatment centers
- c. Physicians offices
- d. Retirement homes, nursing homes and extended care facilities
- e. Veterinary facilities

Real estate developments:

- a. Industrial parks
- b. Mobile home parks

- c. Office buildings and office parks
- d. Residential subdivisions
- e. General retail shopping centers or malls (including food courts)

Religious facilities:

- a. Cathedrals
- b. Chapels
- c. Churches
- d. Mosques
- e. Shrines
- f. Synagogues
- g. Temples

Miscellaneous:

- a. Animal shelters
- b. Public or private schools, continuing education facilities, colleges, universities

3.1.15 REQUIREMENTS FOR ELIGIBILITY

3.1.15.1 GENERAL REQUIREMENTS FOR ELIGIBILITY

A facility must satisfy the following general requirements to be eligible:

It must be located within five (5) miles of the state highway on which the intersection approach sign is erected.

It must be open a minimum of six (6) hours each day, five (5) days each week for a minimum of 20 consecutive weeks each year. This requirement does not apply to facilities which are not customarily open to the public on a daily basis or typically provide scheduled events including, but not limited to, amphitheatres, arenas, auditoriums, civic centers, community farm markets, fairgrounds, flea markets, racetracks, speedways, theatres and performing arts centers.

It must possess all valid licenses and permits necessary for their operation.

It must have free drinking water available.

It must have free public rest rooms or sanitary facilities available. This requirement does not apply to agri-tourism facilities.

It must comply with all applicable local, State and Federal laws concerning public accommodations.

It must be open and available to the general public.

It must have all relevant municipal approvals needed to allow it to provide the goods, services or activities which establish its eligibility in the TODS program.

3.1.15.5 SPECIFIC REQUIREMENTS FOR ELIGIBILITY

A facility must also satisfy the following specific requirements established for its industry type, in addition to the General Requirements For Eligibility, to be eligible. If a Specific Requirement for Eligibility conflicts with a General Requirement For Eligibility, the Specific Requirement will apply.

AGRI-TOURISM FACILITIES

- Be located within ten (10) miles of the highway
- Be open a minimum of six (6) hours each day for five (5) days per week during the growing or operating season

CAMPING FACILITIES:

- Provide a public telephone
- Be located within ten (10) miles of the highway
- Be open a minimum of seven (7) days each week, 360 days throughout the year unless designated as seasonal

FUEL FACILITIES:

- Provide gas, fuel and oil for cars, trucks and other vehicles
- Have a public telephone
- Operate continuously for at least 16 hours each day and seven (7) days each week 360 days per year.
- Be located within one (1) mile of the highway.
- Provide tire repair service or information on available local tire repair facilities
- Provide compressed air for tire inflation and free water for batteries and radiators

LODGING FACILITIES:

- Provide a public telephone
- Operate continuously seven (7) days a week, 360 days per year unless designated as seasonal.

RESTAURANT FACILITIES:

- Provide a public telephone
- Operate continuously a minimum of 12 hours each day, six (6) days a week, unless designated as seasonal.
- A restaurant in a mall, shopping center or other enclosed structure shall have a primary entrance from the parking area which is dedicated for the restaurant's exclusive use.
- Provide a public telephone.

CIVIC AREAS

- TOD Signs for civic areas may not identify an individual business or facility.

3.1.15.3 WAIVERS FROM ELIGIBILITY REQUIREMENTS AND STRAIGHT-AHEAD SIGNS

Waivers from specific eligibility requirements may be granted by the contractor if the following conditions exist, if they are documented, and if they are brought to the attention of the Department.

The provision of the general requirements for eligibility of RFP 3.1.14.1, which require that a facility be located within five (5) miles of the state highway on which the TODS sign is erected, may be waived if the facility is located in a straight-ahead direction from a State highway, at a distance of no more than six (6) miles.

The provisions of the specific requirements for eligibility of RFP 3.1.14.5, which require that an Agri-Tourism or Camping facility be located within 10 miles of the state highway on which the TODS sign is erected, may be waived for such a facility if it is located in a straight-ahead direction from a State highway, at a distance of no more than 12 miles.

3.1.16 GENERAL CONDITIONS FOR PARTICIPATION

3.1.16.1 THE FOLLOWING GENERAL CONDITIONS WILL APPLY TO ALL TOD SIGNS AND FACILITIES:

No facility that maintains a sign in violation of the Roadside Sign Control and Outdoor Advertising Act (N.J.S.A. 27:5-5 et seq.) or the regulations promulgated in accordance thereto is eligible to participate in the TODS program.

No TOD sign will be erected for a facility for which directional signs have been provided on the same state highway by the Department or other entities.

No TOD sign, other than a straight-ahead sign, will be erected for a facility that has direct access to the state highway on which the intersection approach sign would be located. Direct access will be deemed to exist where the facility is located within a shopping center or other real estate development which itself has direct access to the state highway. Straight-Ahead signs are governed by RFP 3.1.19.6.

No TOD sign will be erected unless each intersection in the path to the facility can be marked by a trailblazer sign or other official highway sign. A private sign will not be sufficient to mark the path to the facility. Where a trailblazer sign must be erected in right-of-way which is not under the jurisdiction of the Department, approval must be obtained from the governmental entity which has jurisdiction.

No TOD sign will be erected if the Department determines that the sign would cause an unsafe condition or an unnecessarily complex traffic maneuver.

Sign panels for Civic Areas will be installed at the top of the Intersection Approach Sign.

Where a specific service trailblazer sign is needed at an intersection and a TODS sign is or can be provided, the TODS sign will be used instead of the specific service trailblazer sign. For purposes of this section, a specific service trailblazer sign is a trailblazer sign erected as part of the Specific Service Signs program as described by Part 2, Chapter 2F of the MUTCD.

Distances for participation requirements will be measured from the intersection of the highway at which the intersection approach sign would be located to the leading edge of the driveway of the proposed facility.

3.1.17 APPLICATION, APPROVAL AND PARTICIPATION PROCEDURES

3.1.17.1 APPLICATION

Applications shall be submitted to the contractor on forms approved by the Department. Applications shall include, but are not limited to, the following information: corporate or company name of applicant, address and phone number of applicant, contact person for the application, name and physical address of facility. Incomplete applications will be returned to the applicant.

No application will be approved unless the facility satisfies all regulatory requirements and is in

full operation.

Facilities which are determined to be ineligible or unqualified shall be notified by the contractor. The notification shall advise the applicant that it may appeal the determination. See RFP 3.11 Appeals

3.1.17.2 WAITING LIST

Where the number of approved applicants exceeds the spaces available, priority will be given to the earliest approved applications. Approved applicants which cannot be provided a space will be placed on a waiting list. When a space becomes available, the earliest approved applicant on the waiting list will be offered admittance to the program.

3.1.17.3 ENTRY INTO A CONTRACT

All approved applicants who elect to participate in the TODS program shall do so by entering into a standard contract which has been approved by the Department.

The contract will provide for the fabrication and erection of one (1) sign panel on an intersection approach sign and all trailblazer signs that are needed to mark each subsequent intersection along the path to the facility.

All contracts will terminate on a single date of the year, as specified by the Department. If the termination date would result in a term that is less than 12 months, the contract term will be the balance of the existing contract year plus the next complete contract year. The fees for the balance of the existing contract year will be prorated. The fees for the next complete contract year shall be paid at the beginning of that contract year.

All contracts shall be assignable to the Department, at the Department's election, upon the expiration of the contract awarded under this RFP, upon the termination of said contract or upon Vendor's default.

A participating facility may elect to renew its contract each year if it has paid all fees, meets all eligibility requirements, and is not otherwise required to have its sign removed pursuant to other provisions of this chapter or any other applicable law. If a facility does not meet all eligibility requirements for any reason, it may not renew its contract.

The Department may terminate any contract, at its sole discretion, for its convenience or necessity. If the Department terminates a contract for convenience or necessity, it will only be liable for the pro-rata reimbursement of fees paid by the participating facility.

3.1.18 FEES CHARGED TO PROGRAM PARTICIPANTS

All fees and costs shall be clearly stated to the public in the contractor's promotional literature and in its contract documents. No customer shall receive a special rate, fee waiver or any special pricing term.

3.1.18.1 ANNUAL FEES FOR EACH SIGN PANEL (PER DIRECTION OF TRAVEL):

Regular facility - \$800.

Non-profit organization, Civic Area or Agri-tourism facility - \$400.

3.1.18.2 NON-ANNUAL FEES:

Re-fabrication and re-installation of a sign panel caused by a facility's name change or change of artwork - \$150 per sign panel.

Covering of a panel for seasonal closing, temporary closure or other reason – \$50 per occurrence.

Erection of more than 3 trailblazer signs - \$50 for each trailblazer sign in excess of 3.

3.1.18.3 WAITING LIST FEES

No fee shall be charged for facilities that are on a waiting list.

3.1.18.4 SPECIFIC SERVICE SIGN TRAILBLAZER FEES

Where a TODS sign is used in place of a specific service trailblazer sign, no fee will be charged through the TODS program. Instead, fees shall be charged through the specific service sign program.

3.1.18.5 CREDITS AND REFUNDS

No credit or refund will be given for the temporary loss or damage to an Intersection Approach Sign or a Trailblazer Sign which is caused by a traffic accident, vandalism, ordinary wear and tear or other incident.

Where a Department highway improvement causes the removal of an intersection approach sign for more than 30 days, a credit, pro-rated on a monthly basis, will be applied towards the renewal of the facility's contract for the following year.

3.1.19 DESIGN AND CONSTRUCTION STANDARDS

3.1.19.1 LOCATION AND DESIGN OF SIGNS

Sign placement and design shall be in accordance with Sections 13 of the DOT Roadway Design Manual (RDM) and the MUTCD. Upon request by the Department, proposed signs locations shall be identified by stakes or other suitable markings. Any sign not in compliance with the terms of the Contract or approval granted to it will be relocated or removed immediately by the contractor upon verbal, written or FAX notice by DOT.

TODS signs will be erected after approval of the application, the execution of a contract, and payment of all fees by the participating facility.

The Department may, by itself or by direction to the contractor, cause the relocation of an intersection approach sign or trailblazer sign for any reason if it determines that the sign at the new location would be safe and effective.

The content of the sign will be determined to ensure the safety of the driving public.

3.1.19.2 SIGN SUPPORT DESIGN

Signs and sign supports shall be designed and constructed in accordance with Section 13 of the DOT Roadway Design Manual (RDM) and the DOT Standard Roadway Details, Construction Details (CD) CD-619-4 through CD-619-15 inclusive.

3.1.19.3 SIGN CONSTRUCTION AND MATERIALS

Signs and sign support materials shall conform to the requirements of Section 911, "Signs, Sign Supports and Delineators" of the DOT Standard Specifications for Road and Bridge Construction.

3.1.19.4 LIGHTING

Sign lighting will not be permitted.

3.1.19.5 INTERSECTION APPROACH SIGNS

There shall be no more than four (4) facility panels displayed on any Intersection Approach Sign. Panels shall be rectangular in shape and shall have a white border on blue background. All facility sign panels on the same Intersection Approach Sign should be the same width and shall not exceed six (6) feet. Intersection Approach Signs shall be located 200 feet from the intersection or as otherwise designated by the Bureau of Traffic Engineering and Safety Programs. Any sign may be located laterally outside the normal longitudinal alignment of other traffic control devices, but must be located within the right-of-way. Intersection Approach Signs shall be placed 200 feet apart and 200 feet from other traffic control devices. No sign shall obstruct a driver's critical viewing of other traffic control devices. Not more than two (2) Intersection Approach Signs will be permitted on the approach of any intersection.

3.1.19.6 STRAIGHT AHEAD SIGNS

Straight Ahead Signs will only be permitted under the following circumstances:

- a. Where space is available on an existing intersection approach sign. When a straight-ahead sign has been erected and its space becomes needed for an approved facility which does not have direct access to the state highway, the straight-ahead sign shall be removed at the end of its contract term. If there are more than one straight-ahead signs on an existing intersection approach sign, the sign farthest from the intersection shall be the first to be removed; and
- b. Where a TOD sign for a similar facility exists on the intersection approach sign. Similar facilities are those which are business competitors (ex. two restaurants or two fuel stations) or those which offer the same type of activity (ex. two museums); and
- c. Where the facility does not require a left turn traffic movement which the Department determines to be unsafe.

3.1.19.7 FACILITY PANELS

Facility panels shall include an image that identifies the business name, its trademark or a symbol of the business. No such image shall resemble a traffic sign, traffic signal, traffic control device or warning sign erected or maintained by any governmental agency. The image shall be consistent with all business signs of the facility. Each panel shall have no more than two (2) lines of legend with letters and numbers six (6) inches in height, a separate directional arrow, and the distance to the facility shown beneath the arrow. The content of the legend shall be limited to the identification of the facility. All panels shall be approved by the Project Manager.

3.1.19.8 ORDER OF PLACEMENT OF PANELS.

Panels shall be placed on intersection approach signs on a first-come-first-served basis, except

for Civic Area panels, which will be installed at the top of the intersection approach sign.

Facilities which have had their applications approved, and have submitted an executed contract shall be given priority based on the time when they have paid their fees. The facility which has paid its fees earliest shall have its panel placed on the top of the sign. Signs for right turns and left turns should be arranged vertically on separate sign panels so that the right turn signs are closer to the intersection. When less than four (4) businesses are to be installed on an approach sign, the panels may be combined on the same approach sign with the left turn signs above the right turn signs.

3.1.19.9 TRAILBLAZER SIGNS

Trailblazer signs shall comply with the MUTCD Part 2D as the Department in its engineering judgement shall determine.

3.1.20 TEMPORARY CLOSURE & SEASONAL FACILITIES

3.1.20.1 TEMPORARY CLOSURE

The contractor must include terms which address the temporary closure of a facility in its standard contract. These terms must provide that a participating facility may close temporarily for repairs or emergencies without being found to be in violation of requirements concerning continuous operation provided that:

- a. the facility may close for up to seven (7) consecutive days in order to make repairs or to address an emergency.
- b. The facility shall notify the contractor 15 days before a planned temporary closure. The facility shall notify the contractor within 3 days of a closure necessitated by an emergency;
- c. In the event that the closure exceeds 7 days, the contractor shall request the Project Manager to authorize the covering of the TODS signs until the facility reopens. The Project Manager may determine not to cover a sign upon a determination that the public interest is not adversely affected. The Project Manager may extend the period for which a sign is not covered for up to 30 consecutive days.
- d. If a facility is closed for 90 days or more, the Department may direct the contractor to permanently remove the signs. If there is a facility on the waiting list for this location, the contractor will remove the signs and admit the next eligible facility from the waiting .

3.1.20.2 SEASONAL FACILITIES

Except for agri-tourism facilities, any facility that is open less than 16 consecutive weeks each year shall have a designation on its intersection approach sign indicating that the facility is seasonal. This designation shall be determined by the Department and will be uniform throughout the State.

3.1.21 INSPECTION, MAINTENANCE & REPAIRS

3.1.21.1 INSPECTION

The contractor shall visually inspect all signs quarterly to determine that they are operational. At least once per year, all signs shall be inspected to determine that the sign supports and sign mountings are in good condition and remain compliant with DOT requirements. At least once per year all signs shall be inspected to determine that their retro-reflective properties satisfy the minimum coefficient of retro-reflection established in MUTCD sections 2A.07 and 2A.08.

The contractor shall maintain a log of all inspections and repairs in a manner which shall be approved by the Department. The log shall report the following: the date of inspection, if the sign is operational, if the sign supports are in good condition, if the mountings are in good condition, if the sign is compliant with DOT requirements and if the retro-reflective properties of the sign are satisfactory. If a sign fails inspection, its date of repair shall be indicated.

The contractor shall maintain a log for all repairs in a manner which shall be approved by the Department. The log shall show the date that the Contractor received notice of the damaged sign, the nature of the damage, the date of repair, and the number of days needed to repair the sign from the date of notice.

3.1.21.2 MAINTENANCE.

Signs shall be maintained by the contractor in a manner that benefits the safety of the traveler and the participating facilities. The contractor will be responsible for all maintenance of the signs and the sign structures, including cleaning, removal of graffiti, supply of all replacement parts and re-erection of signs that are damaged, knocked down or vandalized. All damaged signs in the PROGRAM shall be repaired or replaced by the contractor at no cost to DOT.

3.1.21.3 REPAIRS

Where a sign has been damaged or knocked down, and it constitutes a hazard, the contractor shall eliminate the hazard immediately upon gaining knowledge of it.

Where a sign has been damaged or knocked down, the contractor shall repair or replace it within (48) hours of notification from the Department or others. Two weeks shall be allowed if the damage requires fabrication of a new sign panel.

3.1.21.4 REMOVAL OF SIGNS FOR A HIGHWAY IMPROVEMENT

If any TOD sign is removed for a NJDOT construction or maintenance project, the TODS Contractor will not be responsible to re-erect the sign.

If any TOD sign is removed for reasons other than an NJDOT construction or maintenance project, the TODS Contractor shall be responsible to re-erect the sign and the TODS Contractor shall bear the cost.

3.1.22 COMPLIANCE WITH REQUIREMENTS

The contractor shall plan, organize, direct and control all activities in the PROGRAM to assure the systematic, fair and orderly operation of the PROGRAM. Participation of facilities in the PROGRAM shall be governed by the standards set forth in this RFP. The contractor shall consider each facility in accordance with these standards and shall use its best efforts to assure that facilities are fairly selected and enrolled in the PROGRAM and that they remain in compliance with these requirements at all times during their enrollment.

If a participating facility has ceased to satisfy all requirements, the contractor will notify the facility and direct it to comply within 30 days. This period may be extended for good cause if the public safety and the public interest are not adversely affected, with the approval of the Department.

If the determination is not appealed or the participating facility has not complied with the requirements within the time provided, the Department may deem the facility to be in breach of its contract and the contractor shall send written notice to the facility upon the approval of the Department. Upon or after notice, the Department may direct the contractor to terminate the contract, remove or cover the TODS sign panel and trailblazer signs. The space may be allocated to another eligible business.

If the Department determines that the participating facility's failure to meet all requirements would result in an immediate health or safety hazard, the Department may direct the contractor to cover the TODS sign panel upon notice to the participating facility.

Where a participating facility ceases to satisfy any requirements due to a change in the MUTCD, policies, guidance, law or regulations its TODS signs shall be maintained until the end of the contract term, unless the sign causes an immediate health or safety hazard.

3.1.23 APPEALS

In the event that any facility or applicant disputes a decision by the contractor, including the determination not to enroll the facility into the PROGRAM, the contractor shall make a *bona fide* effort to resolve the dispute in a timely manner.

If the contractor is unable to resolve the dispute, it shall promptly advise the facility in writing. The writing shall advise the facility that that the contractor's decision may be appealed to the Department. A copy of the notice shall be simultaneously sent to the Project Manager. The contractor shall also provide copies of its files on the matter to the Project Manager. If requested by the Department, the contractor shall attend and participate in the appeal.

3.1.24 NON-PAYMENT

If a facility is delinquent in payments, the contractor shall pay DOT as if it had received payment from that facility on a timely basis.

3.1.25 OTHER SIGNS

DOT reserves the right to erect and maintain other official signs on any TOD sign structure. These official signs include regulatory signs, highway signs, signs related to public facilities or public safety and all other signs which the Department is otherwise authorized to erect and maintain.

3.1.26 OWNERSHIP OF SIGNS

All signs erected or maintained within State right-of-way by the Contractor shall become the property of the State at the time of their erection.

3.1.27 MOBILIZATION AND DEMOBILIZATION

During the first sixty (60) days after the award of this Contract the contractor must complete the following:

3.1.27.1 LUMP SUM PAYMENT

Deliver within ten (10) business days after award of this Contract the required payment of \$50,000 to the State, pursuant to RFP 3.1.11.1

3.1.27.2 SURETY

Deliver within ten (10) business days after award of this Contract the required surety of \$200,000 to the State, pursuant to RFP 3.1.12

3.1.27.3 INSURANCE

Deliver all appropriate insurance forms to the DOT Project manager, pursuant to RFP

3.1.27.4 MEETINGS WITH THE DEPARTMENT

Meet with the DOT Project Manager and obtain agreement regarding the protocol for format and delivery of the monthly and annual reports, pursuant to RFP 12-X-21272.

3.2 THE NJ DOT'S RESPONSIBILITIES.

3.2.1 RESPONSES TO COMMUNICATIONS FROM THE CONTRACTOR

DOT will respond in a timely manner to any correspondence or communications or request for approval by the contractor.

3.2.2 ADVISING THE CONTRACTOR OF PROBLEMS

DOT will advise the contractor in a timely manner of any problems or issues that arise or are anticipated.

4.0 BID PROPOSAL PREPARATION AND SUBMISSION

4.1 GENERAL

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

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

The forms discussed herein and required for submission of a bid proposal in response to this RFP are available on the web at <http://www.state.nj.us/treasury/purchase/bid/summary/12x21272.shtml> unless noted otherwise.

4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP signatory page accompanying this RFP. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. **State regulation mandates that late bid proposals are ineligible for consideration. THE EXTERIOR OF ALL BID PROPOSAL PACKAGES ARE TO BE LABELED WITH THE BID IDENTIFICATION NUMBER AND THE FINAL BID OPENING DATE OR RISK NOT BEING RECEIVED IN TIME.**

4.3 EBID VS NON-EBID SUBMISSION INSTRUCTION

4.3.1 eBID SUBMISSION OF BID PROPOSAL

If the bidder is submitting an eBid, hard copy submission is not required. Instructions detailing how to enroll in and submit an eBid are available on the web at <http://www.state.nj.us/treasury/purchase/index.shtml>. Should the bidder choose to submit both an eBid and a hard copy of the bidder's proposal, the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions.

4.3.2 NON-eBID SUBMISSION

The bidder must submit the following bid proposal copies:

- **One (1) complete ORIGINAL bid proposal**, clearly marked as the "ORIGINAL" bid proposal.
- **Three (3) complete and exact copies**, clearly marked "COPY".
- **One (1) unbound, complete and exact copy** of the original, clearly marked "COPY".
- **One (1) complete and exact ELECTRONIC copy** of the original proposal in an editable and "writable" PDF file format on disc (CD or DVD) for redaction.

Copies are necessary in the evaluation of the bid proposal and for record retention purposes. A bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. It is suggested that the bidder make and retain a copy of its bid proposal.

4.4 BID PROPOSAL CONTENT

The bid proposal should be submitted in two volumes with the content of each volume as indicated below.

Volume 1

Section 1 - Forms (Sections 4.4.1 and 4.4.2)

Section 2 - Technical Proposal (Section 4.4.3) – **NOTE: This section of the bidder's submission is limited to 25 pages or fewer, with no smaller than a 12 point font.**

Section 3 - Organizational Support and Experience (Section 4.4.4)

Volume 2

Section 4 – Price Schedule (Section 4.4.5)

4.4.1 FORMS/PROOF OF REGISTRATION REQUIRED WITH BID PROPOSAL

4.4.1.1 SIGNATORY PAGE

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

4.4.1.2 OWNERSHIP DISCLOSURE FORM

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

4.4.1.3 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. The bidder shall use the Disclosure of Investigations and Actions Involving Bidder form for this purpose.

4.4.1.4 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE

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

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

4.4.1.5 SET-ASIDE CONTRACTS

Pursuant to the provisions of N.J.S.A. 52:32-17 and N.J.A.C. 17:13, this contract, or a portion thereof, has been designated as a set-aside contract for small business. As such, as indicated on page one of this document, eligibility to bid is limited to bidders that meet statutory and regulatory requirements and have had their eligibility determined by the New Jersey Division of Minority and Women Business Development.

As defined at N.J.A.C. 17:13-1.2, "Small Business" means a business that has its principal place of business in the State of New Jersey, is independently owned and operated, and has no more than 100 full-time employees. The program places small business into the following categories: (i) those with gross revenues not exceeding \$500,000; (ii) those with gross revenues not exceeding \$5 million; and (iii) those with gross revenues that do not exceed \$12 million, or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher. While companies registered as having revenues below \$500,000 can bid on any contract, those earning more than the \$500,000 and \$5 million amounts will not be permitted to bid on contracts designated for revenue classifications below their respective levels.

Inasmuch as this is a full or partial set-aside contract, the bidder should provide, as part of its response to this solicitation, proof of its current registration as a qualifying small business with the

New Jersey Division of Minority and Women Business Development. Application and registration requirements are presented on the web at www.nj.gov/njbusiness/contracting/services/small_business_set_aside.shtml, or by contacting that agency during business hours as indicated below.

NEW JERSEY DIVISION OF MINORITY AND WOMEN BUSINESS DEVELOPMENT
33 WEST STATE STREET – FIRST FLOOR
PO BOX 026, TRENTON, NJ 08625-0026
TELEPHONE: 609-292-2146
FAX #: 609-292-8764

** IF THE BIDDER IS AN INCUMBENT CONTRACTOR AND/OR HAS PREVIOUSLY REGISTERED OR BEEN CERTIFIED UNDER THE FORMER SBE/MBE/WBE PROGRAM, THE BIDDER SHOULD ENSURE IT IS REGISTERED ON THE DAY OF BID RECEIPT AND OPENING WITH THE DIVISION OF MINORITY AND WOMEN BUSINESS DEVELOPMENT UNDER THE SMALL BUSINESS PROGRAM TO BE ELIGIBLE FOR AWARD.

IN ORDER TO EXPEDITE THE SMALL BUSINESS REGISTRATION PROCESS FOR THIS PROCUREMENT, THE BIDDER MAY FAX A COPY OF RFP PAGE ONE (1) REFLECTING THE BID SUBMISSION DUE DATE ALONG WITH THE COMPLETED SMALL BUSINESS REGISTRATION FORM TO THE NEW JERSEY DIVISION OF MINORITY AND WOMEN BUSINESS DEVELOPMENT TO THE FAX NUMBER ABOVE.

4.4.1.5.1 Small Business Subcontracting Set-Aside Contracts:

This is a contract with set-aside subcontracting goals for New Jersey Small Business Enterprises.

4.4.1.6 SUBCONTRACTOR SET-ASIDE FORMS

All bidders shall complete the Notice of Intent to Subcontract Form to advise the State as to whether or not a subcontractor will be utilized to provide any goods or services under the contract. If this is a small business subcontracting set-aside contract, refer to Section 4.4.1.5, then the bidder must comply with the Procedures for Small Business Participation as Subcontractors set forth in the Subcontractor Set-Aside Forms. Further, if the bidder intends to utilize a subcontractor, then the Subcontractor Utilization Form must be completed and submitted with the bid proposal. Bidders seeking eligible small businesses should contact the New Jersey Division of Minority and Women Business Development at (609) 292-2146.

Should the bidder propose to utilize a subcontractor(s) to fulfill any of its obligations, the bidder shall be responsible for the subcontractor's(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.

N.J.A.C. 17:13-4 mandates that if the bidder proposes to utilize a subcontractor, the bidder must make a good faith effort to meet the set-aside subcontracting targets of awarding a total of twenty-five percent (25%) of the value of the contract to New Jersey-based, New Jersey Division of Minority and Women Business Development registered small businesses, with a minimum of five (5) percent awarded to each of the three categories set forth below, and the balance of ten (10) percent spread across the three annual gross revenue categories: Category I – \$1 to \$500,000; Category II – \$500,001 to \$5,000,000; Category III – \$5,000,001 to \$12,000,000 or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher.

Should the bidder choose to use subcontractors and fail to meet the small business subcontracting targets set forth above, the bidder must submit documentation demonstrating its good faith effort to meet the targets with its bid proposal or within seven (7) business days upon request.

4.4.1.7 BID BOND

Not applicable to this RFP.

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

4.4.2.1 MACBRIDE PRINCIPLES CERTIFICATION

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

4.4.2.2 SERVICES SOURCE DISCLOSURE FORM

Pursuant to N.J.S.A. 52:34-13.2, the bidder is required to submit with its bid proposal a completed source disclosure form. Refer to RFP Section 7.1.2 for further explanatory information concerning this requirement.

4.4.3 TECHNICAL PROPOSAL

In this section, the bidder shall describe its approach and plans for accomplishing the work outlined in the Scope of Work section, i.e., Section 3.0. The bidder must set forth its understanding of the requirements of this RFP and its ability to successfully complete the contract. This section of the bid proposal should minimally contain the information identified below.

4.4.3.1 MANAGEMENT OVERVIEW

The bidder shall set forth its overall technical approach and plans to meet the requirements of the RFP in a narrative format. This narrative should convince the State that the bidder understands the objectives that the contract is intended to meet, the nature of the required work and the level of effort necessary to successfully complete the contract. This narrative should convince the State that the bidder's general approach and plans to undertake and complete the contract 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 bidder's ability to complete the contract. The bidder's response to this section should be designed to convince the State that the bidder's detailed plans and approach proposed to complete the Scope of Work are realistic, attainable and appropriate and that the bidder's bid proposal will lead to successful contract completion.

4.4.3.2 CONTRACT MANAGEMENT

The bidder should describe its specific plans to manage, control and supervise the contract to ensure satisfactory contract completion according to the required schedule. The plan should include the bidder's approach to communicate with the State Contract Manager including, but not limited to, status meetings, status reports, etc.

4.4.3.3 CONTRACT SCHEDULE

The bidder should include a contract schedule. If key dates are a part of this RFP, the 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. Such schedule should also identify the associated deliverable item(s) to be submitted as evidence of completion of each task and/or subtask.

The bidder should identify the contract scheduling and control methodology to be used and should provide the rationale for choosing such methodology. The use of Gantt, PERT or other charts is at the option of the bidder.

4.4.3.4 MOBILIZATION AND IMPLEMENTATION PLAN

Not applicable to this RFP.

4.4.3.5 POTENTIAL PROBLEMS

The bidder should set forth a summary of any and all problems that the bidder anticipates during the term of the contract. For each problem identified, the bidder should provide its proposed solution.

4.4.4 ORGANIZATIONAL SUPPORT AND EXPERIENCE

The bidder should include information relating to its organization, personnel, and experience, including, but not limited to, references, together with contact names and telephone numbers, evidencing the bidder's qualifications, and capabilities to perform the services required by this RFP. This section of the bid proposal must minimally contain the information identified below.

4.4.4.1 LOCATION

The bidder should include the address of the bidder's office that will be responsible for managing the contract. The bidder should include the telephone number and name of the individual to contact.

4.4.4.2 ORGANIZATION CHARTS

a. **Contract-Specific Chart.** The bidder should include a contract organization chart, with names showing management, supervisory and other key personnel (including subcontractor management, supervisory or other key personnel) to be assigned to the contract. The chart should include the labor category and title of each such individual.

b. **Chart for Entire Contractor.** The bidder should include an organization chart showing the bidder's entire organizational structure. This chart should show the relationship of the individuals assigned to the contract to the bidder's overall organizational structure.

4.4.4.3 RESUMES

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

- The individual's previous experience in completing each similar contract.

- Beginning and ending dates should be given for each similar contract.
- A description of the contract should be given and should demonstrate how the individual's work on the completed contract relates to the individual's ability to contribute to successfully providing the services required by this RFP.
- With respect to each similar contract, the bidder should include the name and address of each reference together with a person to contact for a reference check and a telephone number.

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

4.4.4.4 BACKUP STAFF

The 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 bidder must hire management, supervisory and/or key personnel if awarded the contract, the 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 contract term.

4.4.4.5 EXPERIENCE WITH CONTRACTS OF SIMILAR SIZE AND SCOPE

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

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

4.4.4.6 FINANCIAL CAPABILITY OF THE BIDDER

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

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

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

The State reserves the right to make the determination to accept the assertion and shall so advise the bidder.

4.4.5 PRICE SCHEDULE

The bidder must submit its pricing using the format set forth in the State-supplied price sheet(s) on the last page of this RFP. Failure to submit all information required will result in the bid being considered non-responsive. Each bidder is required to hold its prices contractor through issuance of contract.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

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

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

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

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

5.2 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of **ten (10) years**. The anticipated "Contract Effective Date" is provided on the signatory page accompanying this RFP. If delays in the bid process result in an adjustment of the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract.

The contract may be extended for **two (2)** additional periods of up to one (1) year, by mutual written consent of the contractor and the Director at the same terms, conditions and pricing. The length of each extension shall be determined when the extension request is processed.

Should the contract be extended, the contractor shall be paid at the rates in effect in the last year of the contract.

5.3 CONTRACT TRANSITION

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

5.4 CONTRACT AMENDMENT

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

5.5 CONTRACTOR RESPONSIBILITIES

The contractor shall have sole responsibility for the complete effort specified in the contract. Payment will be made only to the contractor. The contractor shall have sole responsibility for all payments due any subcontractor.

The 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 the contract. The 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 contract shall not in any way relieve the 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 contractor's performance of this contract.

5.6 SUBSTITUTION OF STAFF

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

The contractor shall forward a request to substitute staff to the State Contract Manager for consideration and approval. No substitute personnel are authorized to begin work until the contractor has received written approval to proceed from the State Contract Manager.

5.7 SUBSTITUTION OR ADDITION OF SUBCONTRACTOR(S)

This Subsection serves to supplement but not to supersede Section 3.11 of the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP.

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

The 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 contractor in its bid proposal.

The contractor shall forward a written request to substitute or add a subcontractor or to substitute its own staff for a subcontractor to the State Contract Manager for consideration. If the State Contract Manager approves the request, the State Contract Manager will forward the request to the Director for final approval.

No substituted or additional subcontractors are authorized to begin work until the contractor has received written approval from the Director.

5.8 OWNERSHIP OF MATERIAL

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of the State of New Jersey and shall be delivered to the State of New Jersey upon 30 days notice by the State. With respect to software computer programs and/or source codes developed for the State, the work shall be considered "work for hire", i.e., the State, not the contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed. 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 Agreement, 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.

Should the bidder anticipate bringing pre-existing intellectual property into the project, the intellectual property must be identified in the bid proposal. Otherwise, the language in the first paragraph of this section prevails. If the bidder identifies such intellectual property ("Background IP") in its bid proposal, then the Background IP owned by the bidder on the date of the contract, as well as any modifications or adaptations thereto, remain the property of the bidder. Upon contract award, the bidder or contractor shall grant the State a non-exclusive, perpetual royalty free license to use any of the bidder/contractor's Background IP delivered to the State for the purposes contemplated by the contract.

5.9 DATA CONFIDENTIALITY

All financial, statistical, personnel and/or technical data supplied by the State to the contractor are confidential. The contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the contractor, or any individual or entity in the contractor's charge or employ, will be considered a violation of this contract and may result in contract termination and the contractor's suspension or debarment from State contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

5.10 NEWS RELEASES

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

5.11 ADVERTISING

The contractor shall not use the State's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the Director.

5.12 LICENSES AND PERMITS

The contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this contract. The contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to the contract award. All costs associated with any such licenses, permits and authorizations must be considered by the bidder in its bid proposal.

5.13 CLAIMS AND REMEDIES

5.13.1 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, 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 the contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.

5.13.3 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS

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

5.13.4 SURETY

This Contract requires annual surety, which may be in the form of an irrevocable letter of credit or in the form of an annual Financial Guarantee Bond, for the amount of \$200,000, to be in effect for each year of the first two years of this Contract. The contractor may provide either **form** of surety, but must maintain one of these forms of surety in effect each year of the first two years of the Contract.

5.14 LATE DELIVERY

The contractor must immediately advise the State Contract Manager of any circumstance or event that could result in late completion of any task or subtask called for to be completed on a date certain.

5.15 RETAINAGE

Not applicable to this RFP.

5.16 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 task or subtask called for under this contract. In such an event, the Director shall provide advance written notice to the contractor.

Upon receipt of such written notice, the contractor will submit, within five (5) working days to the Director and the State Contract Manager, an itemization of the work effort already completed by task or subtask. The contractor shall be compensated for such work effort according to the applicable portions of its price schedule.

5.17 SUSPENSION OF WORK

The State Contract Manager 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 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 and the contractor shall negotiate an equitable adjustment, if any, to the contract price.

5.18 CHANGE IN LAW

Whenever an unforeseen change in applicable law or regulation affects the services that are the subject of this contract, the contractor shall advise the State Contract Manager and the Director in writing and include in such written transmittal any estimated increase or decrease in the cost of its performance of the services as a result of such change in law or regulation. The Director and the contractor shall negotiate an equitable adjustment, if any, to the contract price.

5.19 CONTRACT PRICE INCREASE (PREVAILING WAGE)

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

5.20 PUBLIC WORKS CONTRACT-ADDITIONAL AFCONTRACTORATIVE ACTION REQUIREMENT

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

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

- a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take afcontractorative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color,

national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

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

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

5.21 ADDITIONAL WORK AND/OR SPECIAL PROJECTS

The contractor shall not begin performing any additional work or special projects without first obtaining written approval from both the State Contract Manager and the Director.

In the event of additional work and/or special projects, the contractor must present a written proposal to perform the additional work to the State Contract Manager. The proposal should provide justification for the necessity of the additional work. The relationship between the additional work and the base contract work must be clearly established by the contractor in its proposal.

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

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

Upon receipt and approval of the contractor's written proposal, the State Contract Manager shall forward same to the Director for the Director's written approval. Complete documentation from the Using Agency, concontracting the need for the additional work, must be submitted. Documentation forwarded by the State Contract Manager 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 and Technology.

No additional work and/or special project may commence without the Director's written approval. In the event the contractor proceeds with additional work and/or special projects without the Director's written approval, it shall be at the contractor's sole risk. The State shall be under no obligation to pay for work performed without the Director's written approval.

5.22 FORM OF COMPENSATION AND PAYMENT

This section supplements Section 4.5 of the NJ Standard Terms and Conditions version 07/27/07 accompanying this RFP. The contractor must submit official State invoice forms to the Using Agency with supporting documentation evidencing that work for which payment is sought has been satisfactorily completed. 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 contractor, 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 before payment will be authorized. If the contract has multiple users, then the State Contract Manager shall be the central coordinator of the use of the contract for all Using Agencies, while other State employees engage contractors and approve and pay invoices.

In addition, primary contractors must provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business subcontractor(s). This breakdown shall be sent to the Purchase Bureau representative assigned to this contract.

Invoices must also be submitted for any special projects, additional work or other items properly authorized and satisfactorily completed under the contract. Invoices shall be submitted according to the payment schedule agreed upon when the work was authorized and approved. Payment can only be made for work when it has received all required written approvals and has been satisfactorily completed.

The State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor hourly labor and shall document both the work and the approval. Payment shall not be made without such documentation. For contracts awarded on a time and material or hourly basis, the State Contract Manager or designee shall monitor and approve the hours of work accomplished by contractor hourly labor 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: http://www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls.

5.22.1 PAYMENT TO CONTRACTOR – OPTIONAL METHOD

The State now offers State 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, however, are optional.

P-card transactions do not require the submission of either a contractor invoice or a State payment voucher. 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.

5.23 MODIFICATIONS AND CHANGES TO THE NJ STANDARD TERMS AND CONDITIONS VERSION 07/27/07

5.23.1 PATENT AND COPYRIGHT INDEMNITY

Section 2.1 of the NJ Standard Terms and Conditions version 07/27/07 is deleted and replaced with the following:

2.1 Patent and Copyright Indemnity

a) The contractor shall hold and save the State of New Jersey, its officers, agents, servants and employees, harmless from 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 the contract.

b) The State of New Jersey agrees: (1) to promptly notify the contractor in writing of such claim or suit; (2) that the contractor shall have control of the defense of settlement of such claim or suit; and (3) to cooperate with the contractor in the defense of such claim or suit, to the extent that the interests of the contractor and the State are consistent.

c) In the event of such 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.

5.23.2 INDEMNIFICATION

Section 2.2 of the NJ Standard Terms and Conditions version 07/27/07 is deleted and replaced with the following:

2.2 Indemnification

The contractor's liability to the State for actual, direct damages resulting from the contractor's performance or non-performance, or in any manner related to the contract, for any and all claims, shall be limited in the aggregate to 500 % of the value of the contract, except that such limitation of liability shall not apply to the following:

1. The 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 contractor under the contract caused by negligence or willful misconduct of the contractor;
2. The contractor's breach of its obligations of confidentiality; and,
3. Contractor's liability with respect to copyright indemnification.

The contractor's indemnification obligation is not limited by but is in addition to the insurance obligations contained in Section 2.3 of the NJ Standard Terms and Conditions version 07/27/07.

The contractor shall not be liable for special, consequential, or incidental damages.

5.23.3 INSURANCE - PROFESSIONAL LIABILITY INSURANCE

Section 2.3 of the NJ Standard Terms and Conditions version 07/27/07 regarding insurance is modified with the addition of the following section regarding Professional Liability Insurance.

d. Professional Liability Insurance: The contractor shall carry Errors and Omissions, Professional Liability Insurance and/or Professional Liability Malpractice Insurance sufficient to protect the contractor from any liability arising out the professional obligations performed pursuant to the requirements of the contract. 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 Contractor has claims-made coverage and subsequently changes carriers during the term of the contract, it shall obtain from its new Errors and Omissions, Professional Liability Insurance and/or Professional Malpractice Insurance carrier an endorsement for retroactive coverage.

5.24 CONTRACT ACTIVITY REPORT

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

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

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

Submission of purchase orders, concontractorations, and/or invoices do not fulfill this contract requirement for information. Failure to report this mandated information will be a factor in future award decisions.

Contractors must submit the required information in Microsoft Excel format.

6.0 PROPOSAL EVALUATION

6.1 RIGHT TO WAIVE

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

- (1) the requirement is not mandated by law;
- (2) all of the otherwise responsive proposals failed to meet the mandatory requirement; or
- (3) in the sole discretion of the Director, the failure to comply with the mandatory requirement does not materially affect the procurement or the State's interests associated with the procurement.

6.2 PROPOSAL EVALUATION COMMITTEE

Bid proposals may be evaluated by an Evaluation Committee composed of members of affected departments and agencies together with representative(s) from the Purchase Bureau. 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 in an advisory role.

6.3 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL

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

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

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

Bidders may not attend the oral presentations of their competitors.

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

6.4 EVALUATION CRITERIA

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

6.4.1 TECHNICAL EVALUATION CRITERIA

- a. The bidder's general approach and plans in meeting the requirements of this RFP.

- b. The bidder's detailed approach and plans to perform the services required by the Scope of Work of this RFP.
- c. The bidder's documented experience in successfully completing contracts of a similar size and scope to the work required by this RFP.
- d. The qualifications and experience of the bidder's management, supervisory or other key personnel assigned to the contract, with emphasis on documented experience in successfully completing work on contracts of similar size and scope to the work required by this RFP.
- e. The overall ability of the bidder to mobilize, undertake and successfully complete the contract. This judgment will include, but not be limited to, the following factors: the number and qualifications of management, supervisory and other staff proposed by the bidder to complete the contract, the availability and commitment to the contract of the bidder's management, supervisory and other staff proposed and the bidder's contract management plan, including the bidder's contract organizational chart.

6.4.2 BIDDER'S PRICE SCHEDULE

For evaluation purposes, bidders will be ranked according to the total percentage of revenue the contractor will offer the State located on the Price Sheet accompanying this RFP.

6.4.3 BID DISCREPANCIES

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

6.4.4 EVALUATION OF THE BID PROPOSALS

After the Evaluation Committee completes its evaluation, it recommends to the Director for award the responsible bidder(s) whose bid proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered. The Evaluation Committee considers and assesses price, technical criteria, and other factors during the evaluation process and makes a recommendation to the Director. The Director may accept, reject or modify the recommendation of the Evaluation Committee. Whether or not there has been a negotiation process as outlined in 6.5 below, the Director reserves the right to negotiate price reductions with the selected vendor.

6.5 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

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

one bidder in the competitive range than with another. Negotiations will be structured to safeguard information and ensure that all bidders in the competitive range are treated fairly.

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

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

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

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

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or price proposals, the Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

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

7.0 CONTRACT AWARD

7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD

7.1.1 REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13-25 (FORMERLY EXECUTIVE ORDER 134) AND EXECUTIVE ORDER 117 (2008)

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the negotiation and award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, then-Governor James E. McGreevey issued Executive Order 134 on September 22, 2004. To this end, Executive Order 134 prohibited State departments, agencies and authorities from entering into contracts exceeding \$17,500 with individuals or entities that made certain political contributions. Executive

Order 134 was superseded by Public Law 2005, c. 51, which was signed into law on March 22, 2005 ("Chapter 51").

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

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

7.1.1.1 DEFINITIONS

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

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

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

c) Officer -- a president, vice-president with senior management responsibility, secretary, treasurer, chief executive officer, or chief financial officer of a corporation or any person routinely performing such functions for a corporation. Please note that officers of non-profit entities are excluded from this definition.

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

7.1.1.2 BREACH OF TERMS OF THE LEGISLATION

¹ Contributions made by a spouse, civil union partner or resident child to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides are permitted.

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

7.1.1.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

a) The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or 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 contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by either Chapter 51 or Executive Order 117 have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the mean of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134>, shall be provided to the intended awardee for completion and submission to the Purchase Bureau with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Purchase Bureau Buyer, the Certification and Disclosure(s) within five (5) business days of the State’s request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.

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

7.1.1.4 STATE TREASURER REVIEW

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

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

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

7.1.2 SOURCE DISCLOSURE REQUIREMENTS

7.1.2.1 REQUIREMENTS OF N.J.S.A. 52:34-13.2

Under the referenced statute, effective August 3, 2005, 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.

7.1.2.2 SOURCE DISCLOSURE REQUIREMENTS

Pursuant to the statutory requirements, the intended awardee of a contract primarily for services with the State of New Jersey must disclose the location by country where services under the contract, including subcontracted services, will be performed. The Source Disclosure Certification form accompanies this RFP.

FAILURE TO SUBMIT SOURCING INFORMATION WHEN REQUESTED BY THE STATE SHALL PRECLUDE AWARD OF A CONTRACT TO THE BIDDER.

If any of the services cannot be performed within the United States, the 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 bidder to form the basis of his certification that the services cannot be performed in the United States and whether to seek the approval of the Treasurer.

7.1.2.3 BREACH OF CONTRACT OF EXECUTIVE ORDER 129

A SHIFT TO PROVISION 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, who had on contract 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 contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 3.5b.1 of the Standard Terms and Conditions version 07/27/07 of the RFP, unless previously approved by the Director and the Treasurer.

7.1.3 AFCONTRACTORATIVE ACTION

The intended awardee must submit a copy of a New Jersey Certificate of Employee Information, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Afcontractorative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information or a Federal Letter of Approval must complete

the Afcontractorative Action Employee Information Report (AA-302) located on the web at http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf.

7.2 FINAL CONTRACT AWARD

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

7.3 INSURANCE CERTIFICATES

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

7.4 PERFORMANCE BOND

Not applicable to this RFP.

8.0 CONTRACT ADMINISTRATION

8.1 CONTRACT MANAGER

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

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

8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

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

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

8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER

Any contract user that is unable to resolve disputes with a contractor shall refer those disputes to the State Contract Manager for resolution. Any questions related to performance of the work of the contract by contract users shall be directed to the State Contract Manager. The contractor

may contact the State Contract Manager if the contractor can not resolve a dispute with contract users.

9.0 Special Contract Requirements Relating to Work Funded under the American Recovery and Reinvestment Act of 2009 (ARRA)

I. Introduction

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, ("ARRA") was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, and stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.

This addendum (the "ARRA Addendum") to the agreement (the "Contract") addresses additional requirements applicable to all Contracts which are funded in whole or in part with ARRA funds. These additional requirements contained in this ARRA Addendum are subject to change based on further guidance by the applicable Federal agency which has awarded the ARRA funds to the State of New Jersey. The following terms and conditions are consistent with the mandatory requirements for agreements funded by ARRA as are known as of this date. However, the federal government has not fully developed the implementing instructions of ARRA, particularly concerning specific procedural requirements for the new reporting requirements. The Contractor (as defined below) will be provided any changes and/or additions to these requirements as they become available in an amended ARRA Addendum. The Contractor must comply with all requirements of ARRA. In the event there is any inconsistency between these ARRA requirements and the terms and conditions of the Contract, the ARRA requirements control.

The Contractor agrees and assures that by accepting ARRA funds through the Contract it and its subcontractor(s) will fully comply with the requirements herein and any requirements hereafter issued by the federal government or the State of New Jersey for compliance with ARRA and other related federal and State laws. Further, it is understood that this Contract is subject to all applicable terms and conditions of ARRA.

II. Definitions

"ARRA funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

"Contractor" is defined as any person, including but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the State of New Jersey, or with a person under contract, subcontract, grant, or subgrant with the State of New Jersey, any department in the Executive Branch, the State of New Jersey's independent authorities, commissions, and public institutions of higher education. The term "Contractor" may also include a permittee, licensee, or any agency, political subdivision, instrumentality, or independent authority of the State of New Jersey.

III. General Requirements

A. Flow Down Provision

Contractors must include these Special Contract Requirements contained in this ARRA Addendum in every subcontract over \$25,000,000 that is funded, in whole or in part, by ARRA funds, unless the subcontract is with an individual.

B. Segregation and Payment of Costs

Contractors must segregate the obligations and expenditures related to funding under ARRA. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of ARRA funds shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for ARRA projects. ARRA funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of ARRA and guidance issued by the federal Office of Management and Budget.

Invoices must clearly indicate the portion of the requested payment that is for work paid by ARRA funds.

C. Wage Rates

In accordance with ARRA, §1606, the Contractor assures that it and its subcontractor(s) shall fully comply with said section in that, notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by vendors, contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government, pursuant to ARRA, shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

D. Registration Requirements

In accordance with ARRA, §1512(h), the Contractor and its subcontractor(s) (first-tier) shall register in the Central Contractor Registration (CCR) database at www.ccr.gov, and maintain current registration at all time during the pendency of the Contract. In order to register in CCR, a valid Dun and Bradstreet Data Universal Numbering System (DUNS) Number is required. See www.dnb.com.

E. Buy American

In accordance with ARRA, §1605, the Contractor assures that it and its subcontractor(s) will not use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable federal agency in limited situations, as set out in ARRA, §1605.

F. Whistleblower Protection

In accordance with ARRA, §1553, the Contractor assures that it and its subcontractor(s) shall fully comply with said section, including, but not limited to, assuring that their

employees will not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the federal government or any representative thereof, the State of New Jersey, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury any information that the employee reasonably believes is evidence of: 1) gross mismanagement of a contract or grant relating to ARRA; 2) a gross waste of ARRA funds; 3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; 4) an abuse of authority related to the implementation or use of ARRA funds; or 5) a violation of law, rule, or regulation related to the Contract (including the competition for or negotiation of the Contract), awarded or issued relating to ARRA funds. In accordance with ARRA, §1553(e), the Contractor assures that it and its subcontractor (s) shall post notice of the rights and remedies provided in ARRA, §1553.

G. Prohibition on Use of ARRA Funds.

No ARRA funds may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, or any other items prohibited by ARRA.

ARRA Job Posting.

Contractors and subcontractors located in the State of New Jersey shall post all job openings created, in whole or in part, by ARRA funds (ARRA Job Openings), on the New Jersey Department of Labor and Workforce Development's New Jersey State Job Bank accessed at <http://NJ.gov/JobCentralNJ> at least fourteen (14) days before the contractor or subcontractor shall commence hiring for ARRA Job Openings. Instructions how to post a job are provided at the site. Posting is not required where the Contractor intends to fill the job opening with a present employee, a laid-off former employee, or a job candidate from a previous recruitment, where pre-existing, legally binding collective bargaining agreements provide otherwise, or where an exception has been granted by the Department of Labor and Workforce Development.

IV. Program Reporting Requirements

Pursuant to Section 1512 of ARRA, in order for the State of New Jersey to prepare the required reports, Contractor agrees to provide the State of New Jersey the following information no later than five (5) days following the end of each calendar quarter, or more frequently as directed by the State of New Jersey:

- a. The total amount of ARRA funds received by Contractor during the reporting period;
- b. The New Jersey contract and order number as applicable;
- c. The amount of ARRA funds that were expended or obligated during the reporting period
- d. A detailed list of all projects or activities for which ARRA funds were expended or obligated, including
 - i. the name of the project or activity;
 - ii. a description of the project or activity;
 - iii. an evaluation of the completion status of the project or activity (i.e. not started, less than 50% completed, 50% or more completed; fully completed.); and
 - iv. an estimate of the number of jobs created and/or retained by the project or activity.

- e. For any Contracts equal to or greater than \$25,000 in addition to the information above:
- (i) the name of the entity receiving the Contract;
 - (ii) the amount of the Contract;
 - (iii) the transaction type;
 - (iv) the North American Industry Classification system (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
 - (v) the location of the Contractor;
 - (vi) the primary location in which the Contract is being performed, including the city, state, congressional district and county;
 - (vii) the DUNS number, or name and zip code for the entity headquarters;
 - (viii) the names and total compensation of the five most highly compensated officers of the Contractor if the Contractor received (1) \$25 million or more in annual gross revenue in federal awards; and (2) 80% or more of its annual gross revenues in federal awards; and (3) if the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of the Internal Revenue Code of 1986.

V. Inspection of Documents

In accordance with ARRA, §§902, 1514 and 1515, the Contractor assures that it and its subcontractor(s) will cooperate with any representative of the State of New Jersey, Comptroller General, or appropriate inspector general appointed under §3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), in the examination of their records that pertain to, and involve transactions relating to this Contract, and agrees that they and their personnel can be interviewed by said entities regarding this Contract and related program.

VI. Enforceability

If a Contractor or one of its subcontractors fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the State of New Jersey may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies for recovery of misspent funds available to the State of New Jersey under all applicable state and federal laws.



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF PURCHASE AND PROPERTY
PURCHASE BUREAU
P.O. BOX 230
TRENTON, NJ 08625-0230

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

ANDREW P. SIDAMON-ERISTOFF
State Treasurer

October 19, 2011

To: All Interested Bidders

Re: RFP # 12-X-21272

Tourism Oriented Directional Signing – NJ Department of Transportation

Bid Due Date: **October 28, 2011** (2:00 p.m.)

ADDENDUM #1

The following constitutes Addendum #1 to the above referenced solicitation. This addendum is divided into the following parts:

Part 1: Answers to questions.

Part 2: Additions, deletions, clarifications and modifications to the RFP

It is the bidder's responsibility to ensure that all changes are incorporated into the original RFP.

All other instructions, terms and conditions of the RFP shall remain the same.

PART 1
Tourism Oriented Directional Signing – NJ Department of Transportation
Bid Number 12-X-21272

Answers to Questions

Note: Some of the questions have been paraphrased in the interest of readability and clarity. Each question is referenced by the appropriate RFP page number(s) and section where applicable.

#	Page #	RFP Section Reference	Question	Answer
1	5	Section 1.1 – Paragraph 4	Will the successful vendor be responsible for all costs associated with the operation and administration of the Program, including sign construction and maintenance, as well as the associated guarantees to the Department, relying only on the \$800 or \$400 annual fee from participants with no additional money coming from the State or Department? Confirmation Number: 9874	The successful vendor will be responsible for all costs associated with the operation and administration of the program.
2	5	Section 1.1	Will the new contractor be free to create a new program for the erection, maintenance, and administration, or will the existing program be followed? Confirmation Number: 9877	
3	5	Section 1.2	Does the State provide any information, data or directory on existing businesses that can be considered for eligibility? Confirmation Number: 9877	
4	5	Section 1.2 – Paragraph 2	Will the successful vendor be allowed to build signs anywhere within the state or will they be limited only to the routes listed at the provided link, and only at locations where the spacing limitations for sign installation and other criteria can be met including the criteria in the MUTCD? Confirmation Number: 9874	Signs will be limited to the routes shown in the link and only at locations where the criteria and requirement set forth in the RFP are met. Those criteria include the guidance, standards and requirements established by the MUTCD.
5	6	Section 1.2	The TODS program has produced annual gross revenue for the past 3 years, as listed. Were the stated gross amounts of revenue paid to the state or to the contractor? Confirmation Number: 9877	
6	6	Section 1.2 – Paragraph 2	Will the successful vendor be required to pay the Department \$50,000 per year for the first four years of the contract IN ADDITION TO the greater of either their minimum guaranteed monthly payment	The Vendor will be required to make annual lump sum payments to the Department in the amount \$50,000. One (1) lump sum payment must be

#	Page #	RFP Section Reference	Question	Answer
			<p>or percentage of revenue REGARDLESS of the number of participants in the Program EVEN IF the vendor cannot recover its costs for operation?</p> <p>Confirmation Number: 9874</p>	<p>made in each of the first 4 years. In addition, the Vendor will be required to make monthly payments to the Department based on the percentage of the monthly gross revenue which they indicate they will pay.</p>
7	6	Section 1.3 – Paragraph 3	<p>Are we correct that the gross revenue figures from the Program for 2010 and 2011 include a significant percentage of businesses who no longer qualify for the Program under the new eligibility criteria AND a number of businesses who will now have to only pay half of the annual fee for participation?</p> <p>Confirmation Number: 9874</p>	<p>The gross revenue figures for the TODS program in 2007-2009 include revenues from facilities which no longer qualify for the TODS program, such as supermarkets, food-courts, shopping centers and malls. Public comment received by the Department from the current vendor regarding the adoption of the new rules indicated that 72 existing TODS panels for supermarkets and food courts would be removed. This represents twelve (12%) of the overall program. In addition, 18 existing TODS panels for shopping centers and malls would be removed. This represented three (3%) of the overall program. These comments are at http://www.state.nj.us/transportation/about/rules/documents/adoption16-41D.pdf .</p> <p>The gross revenue figures also include some facilities, such as wineries and farm markets which will now be charged \$400. No comment was received regarding these facilities and the Department believes that the number of these facilities is low.</p>
8	6	Section 1.2 – Paragraph 3	<p>Given the changes to the eligibility criteria and the lowering of fees for some participants, are we correct that the initial annual revenue generated by the Program could be as much as 20% below what is shown for 2010 and 2011?</p> <p>Confirmation Number: 9874</p>	<p>The changes in eligibility criteria have both increased and decreased opportunities for facilities to participate in the program. Supermarkets, food courts, convenience stores, shopping centers and malls are no longer eligible to participate. This will decrease participation.</p> <p>However, changes in criteria were made which are expected</p>

#	Page #	RFP Section Reference	Question	Answer
				<p>to increase participation: Agri-tourism facilities are now eligible to participate and the definition of this category has been significantly broadened beyond wineries and farm markets. Civic areas have also been added as eligible facilities. In addition, the requirement that lodging facilities have at least 10 units has been removed. Opportunities for participation have also been increased by relaxing the standards for the proximity of the facility from the state highway. The previous program required facilities to be within 3 miles of the state highway, except for fuel facilities (which had to be within 1 mile) and camping facilities, (which had to be within 7 miles). The new general requirement requires a facility to be within five (5) miles of the state highway, except for fuel facilities which must be located within 1 mile. Section 3.1.15.5. The five (5) mile distance can be increased to six (6) miles if a facility is located in a straight-ahead direction. Section 3.1.15.3. The specific requirements allow Agri-tourism and Camping facilities to be within 10 miles of the highway. Section 3.1.15.5. Waivers permit an increase of this distance to 12 miles. Section 3.1.15.3</p> <p>The Department cannot reliably say that revenue will rise or fall from previous years. Nor can it attribute any future changes in revenue solely to changes in eligibility criteria or changes in the fee structure.</p>
9	6	Section 1.2 – Paragraph 3	Do the revenue numbers for 2010 and 2011 include revenue from supermarkets, which seem to make up a significant portion of the Program, but are no longer eligible for participation?	Yes. The revenue numbers for 2010 and 2011 include revenue from supermarkets, which would no longer be eligible to participate. The current vendor indicates that 72 existing TODS

#	Page #	RFP Section Reference	Question	Answer
			Confirmation Number: 9874	panels, representing twelve (12%) of the overall program would be removed.
10	14	Section 3.1 – Paragraph 1	<p>Will the successful vendor be required to continue construction of TOD signs for eligible businesses in the later years of the contract even though they may not be able to recover the costs of that construction during the remaining time on the contract?</p> <p>Confirmation Number: 9874</p>	Yes. The vendor is required to erect TODS signs for eligible business throughout the life of the contract. Vendor will receive payments from the active signs that it erects during the life of this contract Vendor will also receive payments for the active signs that were erected by the prior vendor for which the vendor awarded this contract will have incurred no construction costs.
11	19	Section 3.1.12	<p>Are there any other surety provisions after years 1 through 4?</p> <p>Confirmation Number: 9877</p>	
12	19	Section 3.1.12 – Paragraph 1	<p>Could you please confirm that the selected vendor will be required to pay the Department \$50,000 within ten days after award of the contract even though, most likely, they will not have received any payments from participants by that time?</p> <p>Confirmation Number: 9874</p>	Yes, Payment of \$50,000 is required within 10 days of the award of the contract.
13	19	Section 3.1.12 – Paragraph 1	<p>Could you please clarify if the annual surety amount for this contract is \$50,000 as shown in Section 3.1.12 or \$200,000 as shown in Sections 3.1.27.2 and 5.13.4?</p> <p>Confirmation Number: 9874</p>	The vendor is required to make four (4) annual cash payments to the Department pursuant to Section 3.1.11.1. These are lump sum payments. In addition, and as a separate requirement, the Department requires assurances in the event the vendor fails to perform. To clarify these assurances, the Department is eliminating the requirements of Section 3.1.12, Annual Surety. In place of this section, the Department is inserting Section 7.4 Performance Bond. The amount of the required performance bond shall be \$200,000 for the life of the contract.
14	20	Section 3.1.14.2	Are we correct in our understanding that the Program is restrictive of who can participate, and the selected vendor cannot just contract with anyone, since a	Yes. There are restrictions to the facilities which can participate. The intent of the program is to offer signing to

#	Page #	RFP Section Reference	Question	Answer
			<p>facility must be one of the approved types AND must meet the eligibility criteria for participation?</p> <p>Confirmation Number: 9874</p>	<p>tourist oriented facilities that aren't located on state highways. Section 1.2. Only certain types of facilities can participate. Section 3.1.14.2. Some types of facilities are specifically excluded from participation. Section 3.1.14.3. There are General and Specific requirements for eligibility. Section 3.1.15. There are also General Conditions for Participation which must be met. Section 3.1.16. The vendor cannot just contract with anyone.</p>
15	20	Section 3.1.14.2	<p>Will the successful vendor be responsible for the significant costs associated with the removal of the TOD signs for the businesses that are no longer eligible for participation in the Program due to the recent changes in the eligibility criteria?</p> <p>Confirmation Number: 9875</p>	<p>Existing contracts with facilities expire on December 31, 2011. The vendor who is awarded the contract will be required to remove the signs of facilities which do not renew their contract. They will also be required to remove the signs of facilities which are no longer eligible to participate and which, therefore, cannot renew their contracts.</p>
16	25	Section 3.1.18.1	<p>Could you please confirm that the selected vendor will not set their own fees for participants and will be required to charge the annual fee of \$800 for regular facilities and the \$400 for non-profit organizations, Civic Areas, or agri-tourism facilities?</p> <p>Confirmation Number: 9875</p>	<p>The fees for participation have been set by the Department at Section 3.1.18. The successful bidder cannot set fees for participation.</p>
17	26	Section 3.1.18.2	<p>Does the selected vendor pay for the initial fabrication of the blue TOD facility panel?</p> <p>Confirmation Number: 9875</p>	<p>The Vendor pays for the fabrication of the blue TOD facility panel.</p>
18	26	Section 3.1.18.2	<p>Are we correct that there is no fee collected for the initial installation of the TOD facility panel beyond the established annual fee of \$800 for regular facilities and the \$400 for non-profit organizations, Civic Areas, or agri-tourism facilities?</p> <p>Confirmation Number: 9875</p>	<p>The only fees that can be collected from participating facilities are those set forth at Section 3.1.18</p>
19	26	Section 3.1.18.2	<p>Can you charge more for a TOD sign at an intersection where there are more interested businesses than space available?</p>	<p>The successful bidder cannot set fees for participation based on demand or any other factor. The fees for participation have been</p>

#	Page #	RFP Section Reference	Question	Answer
			Confirmation Number: 9875	set by the Department at Section 3.1.18.
20	26	Section 3.1.18.2	<p>Will not the annual revenue for the TODS Program be further reduced by using TOD signs as trailblazers for the logo program and not requiring them to pay the annual TODS participation fee as they do now?</p> <p>Confirmation Number: 9875</p>	<p>Revenue would be reduced by the use of TOD signs as trailblazers for the Logo (Specific Service Signs) program. Public comment received by the Department from the current vendor regarding the adoption of this provision in the new rules indicated that there are eleven (11) participants in New Jersey's Specific Service Sign program that currently use TODS panels as "trailblazers".</p> <p>http://www.state.nj.us/transportation/about/rules/documents/adopt16-41D.pdf</p>
21	27	Section 3.1.19.5	<p>Are you still limited to only 2 TOD structures per intersection per direction with up to 4 TOD facility panels per structure even if there are more interested businesses at the intersection?</p> <p>Confirmation Number: 9875</p>	<p>Yes. The maximum number of Intersection Approach Signs is limited to two (2) per intersection per direction. The maximum number of facilities that can be listed on an Intersection Approach Sign is four (4). Section 3.1.19.5</p>
22	27	Section 3.1.19.5	<p>Might there be situations, such as not sufficient spacing, where a TOD structure cannot be built at an interchange even if there are interested businesses?</p> <p>Confirmation Number: 9875</p>	<p>Yes. There may be situations, where spacing, safety considerations, topography or other characteristics prevent the erection of one or two TODS structures, notwithstanding that there are interested and eligible facilities which would participate at that location.</p>
23	27	Section 3.1.19.6	<p>Since the eligibility criteria have been revised where some facilities who were eligible and participating will no longer be eligible and will have to be removed from the Program, will the facilities participating with a straight ahead arrow who were only participating as a result of those now ineligible facilities to the right or left, have to be removed from the Program as well?</p> <p>Confirmation Number: 9875</p>	<p>There may be facilities that are participating because they met the straight-ahead requirements based on a facility that is no longer eligible to participate.. If the straight-ahead facility was participating only as a result of a now ineligible facility, the straight-ahead facility would no longer comply with the regulatory provisions and would have to be removed.</p>
24	47	Section 6.4	<p>Could you please provide an outline of how each evaluation criteria category of the proposal will be weighted and</p>	<p>The State does not disclose the weights prior to the issue of the letter of intent to award.</p>

#	Page #	RFP Section Reference	Question	Answer
			scored? Confirmation Number: 9875	
25	48	Section 6.4.2	Since percentage of revenue has many variables that may affect how much is actually paid back to the state, none more important than the capability of the selected vendor, why would the proposals be ranked based on percentage of revenue the contractor will offer the state rather than the minimum GUARANTEED amount? Confirmation Number: 9876	The State's interest is in having a successful TODS program. The requirement that the vendor promote the program is established to result in a successful program. Payment will be ranked on the percentage of revenue offered to the State, rather than on a guaranteed minimum amount, so that the State can share in the program's financial success.
26	N/A	N/A	Would you please provide a list of the names of the companies who have submitted questions relating to this RFP? Confirmation Number: 9876	All questions submitted during the Question and Answer period are included in this addendum. All questions are forwarded to the procurement specialist with the identity of the vendor not be disclosed.
27	N/A	N/A	What is the thickness of the metal to be used for the sign and is there a special paint to be used for the background? Confirmation Number: 9877	The Department requires 080 Gauge metal. The Department does not use paint. See PDF file 081-090 CD612.1
28	N/A	N/A	What is the thickness of the metal to be used for the advertising panels mounted to the background panel? Confirmation Number: 9877	The Department requires 040 Gauge metal.
29	N/A	N/A	Is the copy on the signs digital print or reflective vinyl? Confirmation Number: 9877	The Department requires reflective vinyl, not digital print.
30	N/A	N/A	What are the outside dimensions of the sign background? Confirmation Number: 9877	The facility sign panels are 6' wide by 2' high. There are a maximum of four (4) sign panels per structure. See MUTCD, Chapter 2k for TODS.
31	N/A	N/A	How high above grade are the signs to be installed? Confirmation Number: 9877	Signs are to be installed seven (7) feet above grade. Refer to the Department Roadway Construction Details PDF Files 081-096. See also MUTCD Chapter 2A.18
32	N/A	N/A	What types of posts are to be used; steel, aluminum or wood and what are those dimensions?	The details on posts are found at WWW.nj.gov/transportation/eng/ . Go to 1. Drawings; 2. Standard Detail Roadway Traffic Bridges;

#	Page #	RFP Section Reference	Question	Answer
			Confirmation Number: 9877	3. Roadway Construction Details PDF Files; 4. 081-090 CD612.1. Wood posts are not permitted.
33	N/A	N/A	Are there any double faced signs? Confirmation Number: 9877	Double faced signs are not allowed.
34	N/A	N/A	What is the quantity to be fabricated and installed? Confirmation Number: 9877	Each participating facility gets one (1) sign panel per fee, plus the appropriate amount of trailblazers. A maximum of 4 panels may be installed on each Intersection Approach sign structure. The size and number of posts which are to be installed is specified in the sign details. That number is to be used for all sign structures regardless of number of panels installed on the Intersection Approach Structure. The Vendor is expected to promote the program.
35	N/A	N/A	Do the foundations have to be engineered? Confirmation Number: 9877	No. Foundations do not have to be engineered. See Standard Sign Details PDF 081-090.
36	N/A	N/A	Will any of these signs require permits? Confirmation Number: 9877	The Department has jurisdiction over state highway rights-of-way. No permits are required for TODS signs located within a state right-of-way. However, NJDOT Standard Traffic Control Details must be followed. The Department does not have jurisdiction over rights-of-way owned by counties and municipalities. Authority must be obtained from those governmental entities to place a TODS sign in their rights-of-way. It is the Department's belief that no permit would be required for an official highway sign within a county or municipal right-of-way. However, if any permits are required, the vendor shall be responsible to obtain them. See RFP Section 3.1.9.
37	N/A	N/A	Are the signs to be installed into blacktop or grass?	All signs are to be placed a required set back out of the traveled lane. Most of these

#	Page #	RFP Section Reference	Question	Answer
				areas will be grassed. However, there may be a few locations where these areas are blacktop or concrete.

PART 2
RFP NAME
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Additions, Deletions, Clarifications and Modifications to the RFP

#	Page #	RFP Section Reference	Additions, Deletions, Clarifications and Modifications
1	19 & 31	Sections 3.1.12 "Annual Surety" and 3.1.27.2 "Surety"	<p><u>Delete</u> both Sections in their entirety and <u>Replace</u> with the following Section:</p> <p><u>7.4 PERFORMANCE SECURITY</u></p> <p>The successful contractor shall furnish performance security in the amount noted on the RFP signatory page. See <u>N.J.A.C.</u> 17:12-2.5. Acceptable forms of performance security are as follows:</p> <ol style="list-style-type: none"> 1. The contractor shall be required to furnish an irrevocable security in the amount listed in the RFP payable to the Treasurer, State of New Jersey, binding the contractor to provide faithful performance of the contract. 2. The performance security shall be in the form of a properly executed individual or annual performance bond issued by an insurance or security company authorized to do business in the State of New Jersey, a certified or cashier's check to the order of the Treasurer, State of New Jersey, or an irrevocable letter of credit drawn naming the Treasurer, State of New Jersey as beneficiary issued by a federally insured financial institution. <p>The Performance Security must be submitted to the State within thirty (30) days of the effective date of the contract award and cover the period of the contract and any extensions thereof. Failure to submit performance security may result in cancellation of contract for cause pursuant to Section 5.7(b)(1) of the State of NJ Standard Terms and Conditions, and nonpayment for work performed.</p> <p>Within thirty (30) days of the anniversary of the contract effective date, the contractor shall provide proof to the Director that the performance bond in the required amount is in effect. Failure to provide such proof may result in the suspension of payment to the contractor until such time as the contractor complies with this requirement.</p>

#	Page #	RFP Section Reference	Additions, Deletions, Clarifications and Modifications
			<p>Although the performance bond is required for the full term of the contract, the Director recognizes that the industry practice of sureties is to issue a one year performance bond for goods and services contracts. Thus, the contractor is required to submit a one year performance bond for the amount required under the contract and, on each succeeding anniversary date of the contract, provide a continuation or renewal certificate to evidence that the bond is in effect for the next year of the contract. This procedure will remain in place for each year of the contract thereafter until the termination of the contract. Failure to provide such proof on the anniversary date of the contract shall result in suspension of the contract, and possibly, termination of the contract.</p> <p>For performance bonds based on a percentage of the total estimated contract price, the performance bond requirement is calculated as follows. For the first year of the contract, the performance bond percentage on the RFP signatory page is applied to the estimated total contract amount for the full term of the contract. On each anniversary of the effective date of the contract, the amount of the required performance bond, unless otherwise noted, is calculated by applying the established RFP performance bond percentage to the outstanding balance of the estimated amount of the contract price to be paid to the contractor.</p> <p>In the event that the contract price is increased by amendment to the contract, the contractor may be required to provide, within thirty (30) days of the effective date of the amendment, performance bond coverage for the increase in contract price. The required increase in the performance bond amount is calculated by applying the established bond percentage set forth on the RFP signatory page to the increase in contract price. Failure to provide such proof to the Director of this required coverage may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.</p>