

REQUEST FOR QUALIFICATIONS

FOR UNDERWRITING SERVICES



New Jersey Educational Facilities Authority

103 College Road East, 2nd Floor
Princeton, NJ 08540

March 28, 2018



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1.0 BACKGROUND

The New Jersey Educational Facilities Authority (“NJEDA” or “Authority”), an independent and self-supporting state entity, was created as a public body corporate and politic of the State of New Jersey (the “State”) pursuant to the New Jersey Educational Facilities Authority Law (being Chapter 72A of Title 18A of the New Jersey Statutes, as amended and supplemented), *N.J.S.A. 18A:72A-1 et seq.* (the “Act”), to provide a means for New Jersey public and private colleges and universities (the “Institutions”) to construct educational facilities through the financial resources of a public authority empowered to sell tax-exempt and taxable bonds, notes and other obligations. NJEDA is New Jersey’s primary issuer of municipal bonds to finance and refinance the construction and development of academic facilities at the Institutions.

The Authority finances and refinances various types of projects for approximately 50 public and private institutions of higher education in the State. Projects include, but are not limited to: the construction, renovation and acquisition of residential, academic, and research facilities; libraries; technology infrastructures; student life and athletic facilities; parking structures; utilities-related projects; and refinancing of existing debt. The Authority also, from time to time, issues bonds for various purposes that are secured by a contract with the State Treasurer to pay principal of and interest on such bonds subject to appropriations being made, from time to time, by the New Jersey State Legislature (the “Legislature”).

The obligations issued by the Authority are special and limited obligations of the Authority and are not a debt or liability of the State or of any political subdivision thereof other than the Authority, and are not a pledge of the full faith and credit of the State or of any such political subdivision thereof. The Authority has no taxing power. The obligations issued by the Authority are payable solely from amounts received by the Authority under the transaction documents and amounts on deposit in certain funds established under the transaction documents. Certain State-backed bond programs for higher education and public library facilities provide that debt service will be paid by the State Treasurer pursuant to a contract between the Authority and the State Treasurer, subject to annual appropriation by the Legislature.

This solicitation of responses is being conducted pursuant to State laws, regulations and executive orders, specifically Executive Order No. 26 (Whitman, 1994) (“EO 26”) and Executive Order No. 37 (Corzine, 2006) (“EO 37”), and the policies and procedures of the Authority with regard to the procurement of professional services.

2.0 PURPOSE AND INTENT OF REQUEST FOR QUALIFICATIONS

The Authority is seeking proposals from qualified firms to serve as Senior Managing Underwriters and Co-Managing Underwriters (collectively the “Underwriters”) in connection with the proposed future issuance of bonds by the Authority. The purpose of this Request for Qualifications for Underwriting Services (the “RFQ”) is to select qualified underwriting firms for inclusion in the Authority’s underwriting pools for Senior Managing Underwriters (the “Senior Manager Pool”) and Co-Managing Underwriters (the “Co-Manager Pool” and, together with the Senior Manager Pool, the “Pools”) for transactions that may be sold on a negotiated basis. The Authority will then select Underwriters for a specific bond transaction through an additional Request for Proposals (the “RFP”) process among Underwriters in the Pools. Underwriters selected for inclusion in a Pool are not being qualified to serve as Underwriters on any bond transaction that is secured by a contract with the State Treasurer.

Those firms that are selected for the Senior Manager Pool will not be included in the Co-Manager Pool. Firms selected for the Senior Manager Pool may be designated as Sole Manager, Senior Manager, Co-Senior Manager or Co-Manager, at the Authority’s sole discretion, on a per transaction basis. Firms selected for the Co-Manager Pool may be designated as Co-Managers only, at the Authority’s discretion, on a per transaction basis.

Appointment to either Pool does not guarantee that a firm participating in the Pool will be assigned to a particular transaction and the Authority further reserves the right to change firms on a particular transaction at any time. Firms appointed to an Underwriter Pool will not be eligible to serve as the Authority’s Financial Advisor in any Authority transaction.

This RFQ is being distributed to firms to provide services for a thirty-six (36) month period with two (2) additional successive twelve (12) month periods at the Authority’s discretion. The Authority anticipates that it will seek approval of the Pools at its May 2018 Board Meeting. The veto period expiration and confirmation of Pools will be on or about June 8, 2018. This schedule is subject to change upon notice of the Authority. Schedule changes and/or other RFQ revisions, if any, will be posted on the Authority’s website at: www.njefa.nj.gov.

The Authority reserves the right to review, revise and/or terminate either of the Pools at any time during the term of the Pools in accordance with EO 26 and EO 37 as deemed necessary with written notice.

Respondents are required to comply with the requirements of *N.J.S.A. 10:5-31 et seq.* and *N.J.A.C. 17:27 et seq.* relating to the Mandatory Equal Employment Opportunity Language as set forth in Exhibit A-1.

3.0 MINIMUM REQUIREMENTS

A firm must meet the following minimum requirement to be given further consideration to be selected for inclusion in the Authority's Pools. Failure of a firm to meet the minimum requirement will result in a proposal's immediate rejection.

- Firm must hold and maintain all necessary licenses required by the NASD, MSRB, SEC or any other regulatory agency necessary to perform the services required by the Authority.

4.0 SCOPE OF SERVICES

Senior and Co-Senior Managers will be required to provide some or all of the services identified below, at the request of the Authority:

- 4.1.1** Prepare financing schedules and distribution lists;
- 4.1.2** Schedule and conduct working group calls;
- 4.1.3** Structure and size bond issues in order to minimize overall debt service costs;
- 4.1.4** Prepare and update cash flows for individual transactions;
- 4.1.5** Assist in drafting and reviewing relevant documents, including, but not limited to, preliminary and final official statements, purchase agreements, resolutions and indentures, contracts, and other agreements;
- 4.1.6** Assist in the preparation of materials or presentations, discussions and meetings or other communications with rating agencies, swap consultants, counterparties, insurers, credit enhancers and investors;
- 4.1.7** Obtain bids for credit enhancement and recommend efficient utilization of available credit enhancement, including but not limited to bank facilities and bond insurance;
- 4.1.8** Identify investment opportunities that provide savings and improve the efficiency or execution of a transaction;
- 4.1.9** Prepare pricing memos discussing market conditions and preliminary pricing scales, syndicate rules, syndicate price views and proposed underwriter compensation;
- 4.1.10** Manage the underwriting process and provide information on market timing, trends and investor demand;
- 4.1.11** Market and distribute bonds;
- 4.1.12** Commit capital as required in underwriting the Authority's bonds;
- 4.1.13** Provide post-closing analysis of debt issuances including pricing results, orders, allotments, designations, etc., and all information required by EO 26;
- 4.1.14** Provide support for the Authority's bonds in the secondary market;
- 4.1.15** Work cooperatively with other finance team members, including but not limited to bond counsel, co-managers, financial advisors, rating agencies, auditors, etc.
- 4.1.16** Participate in Board meetings and other related meetings as needed; and,

4.1.17 Provide other services as requested.

Co-Managers will be required to provide some or all of the services identified below, at the request of the Authority:

- 4.2.1** Assist in the marketing and distribution of bonds;
- 4.2.2** Commit capital as required in underwriting the Authority's bonds;
- 4.2.3** Provide support for the Authority's bonds in the secondary market; and,
- 4.2.4** Provide other services as requested.

Note: Documentation

All bond financing documents and contractual arrangements will be governed by New Jersey law and the form and substance of any agreements must be satisfactory to both Bond Counsel and the Office of the Attorney General.

5.0 REQUIRED COMPONENTS OF THE PROPOSAL

Each firm submitting a statement of qualifications must follow the instructions contained in this RFQ in preparing and submitting its statement of qualifications. Proposals should be completed in the most concise manner possible and must contain all of the information requested in the order and format requested. All terms and conditions set forth in this RFQ will be deemed to be incorporated by reference in their entirety into any proposal submitted by each firm.

In responding to this Request for Qualifications, please address the following areas:

5.1 Mandatory Cover Letter

- 5.1.1** Each submission must be accompanied by a cover letter. An individual who is authorized to bind the firm contractually shall sign the letter, which will be considered an integral part of the submission. The letter must certify that all of the information contained in the submission is accurate and complete insofar as information that might affect the submission adversely. The letter shall also state that the submission was prepared solely by the firm and prior to the time at which all matters regarding selection and compensation are determined, was not discussed with any individual outside of the firm, other than as specifically disclosed in such letter or contemplated by this RFQ. Submissions not containing a cover letter in accordance with this paragraph will not be accepted.

5.2 Firm Experience and Key Personnel

- 5.2.1** Please provide a brief description of your firm including its overall scope of banking services and recent history. Describe any major restructuring(s), reorganization(s), or acquisition(s) since January 1, 2014.
- 5.2.2** Identify the key personnel who will be serving the Authority. Please provide their contact information, resumes and relevant experience. Resumes may be included in the Appendix.

- 5.2.3** Describe your firm's qualifications, knowledge and experience as both senior manager and co-manager on College and University transactions. Describe any unique or innovative structures you have utilized for higher education clients or any execution challenges and how they were mitigated. In the Appendix, provide a list of all negotiated higher education transactions completed nationally since July 1, 2016.
- 5.2.4** Describe your firm's qualifications, knowledge and experience serving as senior managing underwriter or co-managing underwriter to the Authority since January 1, 2014*. Proposals should include the following:
 - 5.2.4.1** A list of transactions your firm has completed for the Authority since July 1, 2014 with your firm's sales performance including your orders placed (retail, professional retail, institutional, and member) and allotments received; and,
 - 5.2.4.2** Your firm's support of the Authority's bond issues in the secondary market.

**If your firm has not served as a senior managing or co-managing underwriter on a transaction for the Authority, discuss the issues noted above with respect to similar credits for other issuers and how these experiences relate to the Authority's bonds.*
- 5.2.5** Discuss your firm's experience and presence within the State of New Jersey, including the number of offices, the number of employees and the type of business conducted in the State.

5.3 Capital Commitment

Describe your firm's capital commitment to public finance.

- 5.3.1** Provide the amount of uncommitted excess net capital your firm has allocated to public finance;
- 5.3.2** List the three (3) largest positions your firm has taken down into inventory since January 1, 2017 when your firm served as senior manager (or co-manager, if not applicable) on a transaction. Please include the issuer, the type of bonds, total par amount, credit rating, the total amount of unsold bonds, and the amount of bonds your firm took into inventory.
- 5.3.3** Provide two (2) case study examples where your firm used its capital to support the sale and distribution of bonds since January 1, 2016.

5.4 Credit Ratings

Provide your firm's credit ratings (if available) and any rating or outlook changes since January 1, 2014.

5.5 Syndicate Structure Statistics

Provide a summary of your firm's last ten (10) senior managed transactions, highlighting the issuer, the size of the issue, whether the transaction was group net or net designated, the number of co-managers (if any) and the economic split structure as detailed in the AAU (i.e. "No firm may receive more than 60% of any designation"). This information may be included in the Appendix.

5.6 Ideas, Services and Coverage

5.6.1 Specifically describe the ideas, services and coverage your firm has provided to the Authority since July 1, 2016.

5.6.2 Please detail your firm's outreach to the Authority with respect to Congressional tax reform matters in November and December of 2017.

5.6.3 Describe any valuable ideas regarding new trends, products and structures in financing college and university facilities.

5.7 Marketing Strategy

Describe your firm's marketing strategy with respect to retail, professional retail, and institutional buyers as well as your distribution capabilities in relation to your firm's ability to distribute New Jersey and higher education securities. Would your firm recommend the use of "net roadshows" or other investor outreach on transactions?

5.8 Distressed Credits

Provide two (2) detailed case studies describing your firm's qualifications, knowledge and experience serving as a managing underwriter to higher education entities rated Baa1/BBB+ and below and/or non-rated since July 1, 2016.

5.9 G-37/38

Please provide copies of the firm's most recent filing of G-37/38 Reports pursuant to Rules G-37 and G-38 of the Municipal Securities Rulemaking Board.

5.10 Annual Report and Financial Statements

Provide one (1) copy of your firm's most recent annual report and audited financial statements.

5.11 Litigation

Describe any pending, concluded or threatened litigation, administrative proceedings or federal or state investigations or audits, subpoenas or other information requests of or involving your firm or the owners, principals or employees. Describe the nature and status of the matter and the resolution, if any.

5.12 Sanctions or Penalties

List any sanctions or penalties brought against your firm or any of its personnel (including suspension or disbarment) by any regulatory or licensing agencies since July 1, 2016. Include a description of the reasons for the sanctions or penalties and whether such sanctions or penalties are subject to appeal.

5.13 Conflict of Interest

Describe any material agreements, relationships, retainers or other employment that your firm or any employee of your firm has with any other investment banking firm, financial advisory firm, law firm, institution of higher education or 501(c)(3) organization or other person or entity that may create a conflict of interest or the

appearance of a conflict of interest with the Authority or a New Jersey public or private higher education institution. If a conflict does or might exist, please describe how your firm would eliminate or prevent it.

5.14 Required Documents and Forms

In addition to all Required Components of the Proposal as listed above, all documents and forms listed in the Checklist referenced in Section 9.0 must be timely submitted in order for a Proposal to be considered responsive to this RFQ.

6.0 SUBMISSION OF THE PROPOSAL

In order to be considered for appointment, your firm must submit one (1) original and three (3) copies of your proposal addressing the specific requirements outlined herein by no later than **3:00 PM EDT on Wednesday, April 18, 2018** at the following location:

NEW JERSEY EDUCATIONAL FACILITIES AUTHORITY
Attention: Steven Nelson, Director of Project Management
103 College Road East, 2nd Floor
Princeton, NJ 08540

Proposals received after this time and date will not be considered. E-mailed and/or faxed proposals will not be accepted under any circumstances. Joint proposals are not permitted. Proposals must be limited to **fifteen (15)** pages, not including materials in the Appendices.

No firm submitting a proposal may make any inquiries concerning this RFQ, except as expressly set forth herein, to any other NJEFA or Institution employee, Board member, or other state official until final selections have been determined. The Authority asks respondents not to contact rating officials or other outside parties in connection with preparing a response. No telephone inquiries will be accepted, except as expressly set forth herein concerning P.L. 2005, c. 51/Executive Order No. 117. All inquiries related to this RFQ must be directed in writing via email or fax to:

Steven Nelson, Director of Project Management
Steven.Nelson@njefa.nj.gov
(609) 987-0850

All inquiries must be received by **Wednesday, April 4, 2018**. If the Authority determines that any answers to such questions should receive the attention of all RFQ recipients, the responses will be posted on www.njefa.nj.gov on or about **Wednesday, April 11, 2018**. It is the responsibility of the respondents to check our website regularly for updates, if any. All such answers to questions or addenda shall be incorporated into and made part of this RFQ.

The Authority reserves the right to request additional information if necessary or to request an interview with firm(s) in which the evaluation committee will participate. The Authority also

reserves the right to reject any and all proposals with or without cause, and waive any irregularities or informalities in the proposals submitted. The Authority further reserves the right to make such investigations as it deems necessary as to the qualifications of any and all firms submitting proposals. The Authority also reserves the right to reject any and all submitted proposals. In the event that all proposals are rejected, the Authority reserves the right to resolicit proposals.

The Authority assumes no responsibility and bears no liability for costs incurred by a firm in the preparation and submittal of a proposal, or interviews, if any, in response to this RFQ. The Authority assumes no responsibility and bears no liability for the disclosure of any information or material received in connection with the solicitation, whether by negligence or otherwise.

All documents and information submitted shall be available to the general public as required by EO 26 and applicable law, including New Jersey Open Public Records Act, *N.J.S.A. 47:1A et seq.*

7.0 SELECTION PROCESS

The responses to the RFQ will be reviewed by Authority staff and recommendations for inclusion in the Authority's Pools will be made to the Authority's Board. In accordance with EO 26, the criteria used to evaluate responsive proposals shall include, but are not limited to:

- Ideas, expertise, capacity, experience and personnel;
- Overall underwriting experience and experience with higher education issuing authorities and college and university clients;
- Understanding of the Institutions' financing needs and objectives;
- Development of innovative ideas;
- Capital adequacy and underwriting commitment;
- Analytical capabilities, including sophisticated cash flow analysis;
- Experience and availability of professionals working on Authority transactions;
- New Jersey presence;
- Demonstrated ability to distribute Authority securities; and,
- Overall quality of response to this RFQ.

All proposals will be reviewed to determine responsiveness. Non-responsive proposals will be rejected without evaluation. Responsive proposals will be reviewed and scored by an evaluation committee pursuant to the grading scale it creates. The Authority reserves the right to request clarifying information subsequent to the submission of the proposal if necessary.

Once the Pools are established, at the sole discretion of the Authority, future RFP processes for a specific bond transaction may be open to all or some of the participating members of the Pools dependent on the needs of the transaction, the type and quality of the credit or other factors.

8.0 STATUTORY REQUIREMENTS

8.1 STATUTORY REQUIREMENTS

8.1.1 Chapter 51 and Executive Order No. 117. Pursuant to P.L. 2005, c. 51 (“Chapter 51”) and Executive Order No. 117 (Corzine 2008) (“Executive Order 117”), State departments, agencies and independent authorities, such as the Authority, are precluded from awarding contracts exceeding \$17,500 to vendors who make certain political contributions on and after October 15, 2004, to avoid any appearance that the selection of contracts is based on the contractors’ political contributions. The firms selected pursuant to this RFQ shall be required to maintain compliance with Chapter 51 and Executive Order 117 during the term of their engagement. If your firm has questions regarding the requirements of P.L. 2005, c. 51/Executive Order No. 117, please contact Jacqueline McFadyen, Associate Project Manager, at 609-987-0880.

8.1.2 Chapter 271. Pursuant to P.L. 2005, c. 271 (“Chapter 271”), at least ten (10) days prior to entering into any agreement or contract with a value over \$17,500 with the Authority, business entities are required to submit a disclosure of certain political contributions.

Firms are also advised of their responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to *N.J.S.A. 19:44A-20.13* (P.L. 2005, c. 271, section 3) if your firm receives contracts with public entities, such as the Authority, in excess of \$50,000 or more in the aggregate in a calendar year. It is the firm’s responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or www.elec.state.nj.us.

8.1.3 Executive Order No. 9. Pursuant to Executive Order No. 9 (Codey 2004), dated and effective as of December 6, 2004, it is the policy of the State that in all cases where bond underwriting services are or may be required by the State or any of its departments, agencies or independent authorities, such department, agency or independent authority shall deal directly with the principals of the underwriting firms or their registered lobbyists. The department, agency or independent authority shall not discuss, negotiate or otherwise interact with any third-party consultant, other than principals of the underwriting firms and their registered lobbyists, with respect to the possible engagement of the firm to provide bond underwriting services. Compliance with Executive Order No. 9 shall be a material term and

condition of any bond purchase contract entered into by underwriters selected for this assignment.

8.1.4 Chapter 92. In accordance with P.L. 2005, c. 92, all service performed pursuant to this RFQ shall be performed within the United States.

8.1.5 Certification of Non-Involvement in Prohibited Activities in Iran. Pursuant to *N.J.S.A. 52:32-58*, firms must certify that neither the bidder, nor any of its parents, subsidiaries, and/or affiliates (as defined in *N.J.S.A. 52:32 – 56(e) (3)*), is listed on the Department of the Treasury’s List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither is involved in any of the investment activities set forth in *N.J.S.A. 52:32 – 56(f)*. If the bidder is unable to so certify, the bidder shall provide a detailed and precise description of such activities.

8.1.6 Mandatory EEO Language and State Policy Prohibiting Discrimination in the Workplace. If awarded a contract, your firm shall be required to comply with the requirements of *N.J.S.A. 10:5-31 et seq.* and *N.J.A.C. 17:27 et seq.* and the terms set forth in **EXHIBITS A-1 and A-2**.

8.1.7 New Jersey Business Registration. Pursuant to the terms of *N.J.S.A. 52:32-44*, entities providing goods or services to the Authority must be registered with the New Jersey Department of the Treasury, Division of Revenue. Effective September 1, 2004, pursuant to an amendment to *N.J.S.A. 52:32-44*, State and local entities, including the Authority, are prohibited from entering into a contract with an entity unless the firm has provided a copy of its business registration certificate (or interim registration) as a part of its response.

To verify the registration status of your business and obtain a Business Registration Certificate visit the Division of Revenue website at: https://www1.state.nj.us/TYTR_BRC/jsp/BRCLoginJsp.jsp. If your firm is not already registered with the New Jersey Division of Revenue, the form should be completed online at the Division of Revenue website at: www.state.nj.us/treasury/revenue/index.html.

8.2 STATUTORILY REQUIRED FORMS

The following statutorily-required forms can be downloaded from the Department of the Treasury website at: <http://www.state.nj.us/treasury/purchase/forms.shtml>.

- State of New Jersey Standard Terms and Conditions
- Ownership Disclosure Form
- Disclosure of Investigations and Other Actions Involving Vendor

- Disclosure of Investment Activities in Iran Form
- Affirmative Action Compliance (submit one of the following):
 - New Jersey Certificate of Employee Information Report
 - Federal Letter of Approval Verifying a Federally Approved or Sanctioned Affirmative Action Program (*dated within one (1) year of submission*)
 - Affirmative Action Employee Information Report (AA-302)
- Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions
- Chapter 271 Vendor Certification and Political Disclosure Form
- MacBride Principles Form
- Proof of New Jersey Business Registration
- Source Disclosure Form

9.0 CHECKLIST, ATTACHMENTS AND EXHIBITS

The Checklist on the following page is to be executed by an authorized signer, and all required forms and documents listed therein must be included and submitted with your Proposal.

RFQ CHECKLIST			DOCUMENT INCLUDED	
PROPOSAL	1	Written Proposal	<input type="checkbox"/>	
	2	Copies of the firm's most recent filing of G-37/38 Reports pursuant to Rules G-37 and G-38 of the Municipal Securities Rulemaking Board	<input type="checkbox"/>	
	3	One copy of your firm's most recent annual report and audited financial statements	<input type="checkbox"/>	
EXHIBITS	4	EXHIBIT A-1 - Mandatory Equal Employment Opportunity Language - <i>Signed Acceptance and Acknowledgment</i>	<input type="checkbox"/>	
		EXHIBIT A-2 - State Policy Prohibiting Discrimination in the Workplace and Vendor/Contractor Acknowledgment of Receipt	<input type="checkbox"/>	
	5	EXHIBIT B – Certification of No Change (<i>only for firms who have previously submitted the certification and disclosure forms pursuant to P.L. 2005, c. 51/Executive Order No. 117</i>)	<input type="checkbox"/>	
DIVISION OF PURCHASE & PROPERTY FORMS	6	State of New Jersey Terms and Conditions (<i>Signed Acceptance of Terms & Conditions</i>)	<input type="checkbox"/>	
	7	Ownership Disclosure Form	<input type="checkbox"/>	
	8	Disclosure of Investigations and Other Actions Involving Vendor	<input type="checkbox"/>	
	9	Disclosure of Investment Activities in Iran	<input type="checkbox"/>	
	10	Affirmative Action Compliance (submit one of the following)	<input type="checkbox"/>	
		a. New Jersey Certificate of Employee Information Report		
		b. Federal Letter of Approval Verifying a Federally Approved or Sanctioned Affirmative Action Program (dated within one (1) year of submission of Proposal)		
		c. Affirmative Action Employee Information Report (AA-302)		
	11	Two-Year Chapter 51/Executive Order 117 Vendor Certification and Disclosure of Political Contributions OR Certification of No Change (EXHIBIT B)	<input type="checkbox"/>	
	12	Chapter 271 Vendor Certification and Political Disclosure Form	<input type="checkbox"/>	
	13	MacBride Principles Form	<input type="checkbox"/>	
	14	Proof of New Jersey Business Registration	<input type="checkbox"/>	
	15	Source Disclosure Form	<input type="checkbox"/>	
	MISCELLANEOUS	16	Small, Minority and/or Women-Owned Business Enterprise Certification or Documentation (if applicable)	<input type="checkbox"/>
		17	NJSTART Registration NJSTART is a system which provides a “one-stop shop” for vendors to submit proposals, maintain required forms and certifications, and present purchase orders and invoices for payment. Visit www.njstart.gov and click on “Register” to start the process.	<input type="checkbox"/>

I hereby acknowledge that I have read and attached all the necessary documents that are required in response to this RFQ.

Firm Name: _____

Submitted By: _____

Title: _____

Date: _____

EXHIBIT A-1

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

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

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

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

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

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

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

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

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

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

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

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

Firm Name: _____

Submitted By: _____

Title: _____

Date: _____

EXHIBIT A-2

VENDOR/CONTRACTOR ACKNOWLEDGMENT OF RECEIPT

New Jersey Educational Facilities Authority is committed to establishing and maintaining a workplace environment that is free from discrimination or harassment.

Attached for your review is the New Jersey State Policy Prohibiting Discrimination in the Workplace, which must be distributed to all vendors/contractors with whom New Jersey Educational Facilities Authority has a direct relationship.

Please sign and return this Acknowledgment of Receipt to confirm you have received a copy of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

Firm Name: _____

Authorized Signer: _____

Printed Name: _____

Title: _____

Date: _____



NEW JERSEY STATE POLICY PROHIBITING DISCRIMINATION IN THE WORKPLACE

I. POLICY

a. Protected Categories

The State of New Jersey is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

To achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the state and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

b. Applicability

Prohibited discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. Thus, this policy applies to all employees and applicants for employment in State departments, commissions, State colleges or universities, agencies, and authorities (hereafter referred to in this section as "State agencies" or "State agency"). The State of New Jersey will not tolerate harassment or

discrimination by anyone in the workplace including supervisors, co-workers, or persons doing business with the State. This policy also applies to both conduct that occurs in the workplace and conduct that occurs at any location which can be reasonably regarded as an extension of the workplace (any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed).

This policy also applies to third party harassment. Third party harassment is unwelcome behavior involving any of the protected categories referred to in (a) above that is not directed at an individual but exists in the workplace and interferes with an individual's ability to do his or her job. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

II. PROHIBITED CONDUCT

a. Defined

It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in I (a) above. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development.

It is also a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in I(a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

Examples of behaviors that may constitute a violation of this policy include, but are not limited to:

- Discriminating against an individual with regard to terms and conditions of employment because of being in one or more of the protected categories referred to in I(a) above;
- Treating an individual differently because of the individual's race, color, national origin or other protected category, or because an individual has the physical, cultural or linguistic characteristics of a racial, religious, or other protected category;

- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a racial, religious or other protected category; or due to the individual's membership in or association with an organization identified with the interests of a certain racial, religious or other protected category; or because an individual's name, domestic partner's name, or spouse's name is associated with a certain racial, religious or other protected category;
- Calling an individual by an unwanted nickname that refers to one or more of the above protected categories, or telling jokes pertaining to one or more protected categories;
- Using derogatory references with regard to any of the protected categories in any communication;
- Engaging in threatening, intimidating, or hostile acts toward another individual in the workplace because that individual belongs to, or is associated with, any of the protected categories; or
- Displaying or distributing material (including electronic communications) in the workplace that contains derogatory or demeaning language or images pertaining to any of the protected categories.

b. Sexual Harassment

It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of prohibited behaviors that may constitute sexual harassment and are therefore a violation of this policy include, but are not limited to:

- Generalized gender-based remarks and comments;
- Unwanted physical contact such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement;
- Verbal, written or electronic sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person's clothing;
- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver;
- Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluation or promotional opportunity; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

III. EMPLOYEE RESPONSIBILITIES

Any employee who believes that she or he has been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment is encouraged to promptly report the incident(s) to a supervisor or directly to the State agency's Equal Employment Opportunity/Affirmative Action Officer or to any other persons designated by the State agency to receive workplace discrimination complaints.

All employees are expected to cooperate with investigations undertaken pursuant to VI below. Failure to cooperate in an investigation may result in

administrative and/or disciplinary action, up to and including termination of employment.

IV. SUPERVISOR RESPONSIBILITIES

Supervisors shall make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the State agency's Equal Employment Opportunity/Affirmative Action Officer, or any other individual designated by the State agency to receive complaints of workplace discrimination/harassment. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and in the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace (Model Procedures), a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader).

V. DISSEMINATION

Each State agency shall annually distribute the policy described in this section, or a summarized notice of it, to all of its employees, including part-time and seasonal employees. The policy, or summarized notice of it, shall also be posted in conspicuous locations throughout the buildings and grounds of each State agency (that is, on bulletin boards or on the State agency's intranet site). The Department of the Treasury shall distribute the policy to State-wide vendors/contractors, whereas each State agency shall distribute the policy to vendors/contractors with whom the State agency has a direct relationship.

VI. COMPLAINT PROCESS

Each State agency shall follow the Model Procedures with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. See N.J.A.C. 4A:7-3.2. Each State agency is responsible for designating an individual or individuals to receive complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Equal Employment Opportunity/Affirmative Action Officer, each State agency shall designate an alternate person to receive claims of discrimination/harassment.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough and

impartial manner. The results of the investigation shall be forwarded to the respective State agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where a violation of this policy is found to have occurred, the State agency shall take prompt and appropriate remedial action to stop the behavior and deter its reoccurrence. The State agency shall also have the authority to take prompt and appropriate remedial action, such as moving two employees apart, before a final determination has been made regarding whether a violation of this policy has occurred.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

Each State agency shall maintain a written record of the discrimination/harassment complaints received. Written records shall be maintained as confidential records to the extent practicable and appropriate.

VII. PROHIBITION AGAINST RETALIATION

Retaliation against any employee who alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

Following are examples of prohibited actions taken against an employee because the employee has engaged in activity protected by this subsection:

- Termination of an employee;
- Failing to promote an employee;
- Altering an employee's work assignment for reasons other than legitimate business reasons;
- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees).

VIII. FALSE ACCUSATIONS AND INFORMATION

An employee who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, may be subjected to administrative and/or disciplinary action, up to and including termination of employment. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

IX. CONFIDENTIALITY

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. All persons interviewed, including witnesses, shall be directed not to discuss any aspect of the investigation with others in light of the important privacy interests of all concerned. Failure to comply with this confidentiality directive may result in administrative and/or disciplinary action, up to and including termination of employment.

X. ADMINISTRATIVE AND/OR DISCIPLINARY ACTION

Any employee found to have violated any portion or portions of this policy may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

XI. TRAINING

All State agencies shall provide all new employees with training on the policy and procedures set forth in this section within a reasonable period of time after each new employee's appointment date. Refresher training shall be provided to all employees, including supervisors, within a reasonable period of time. All State agencies shall also provide supervisors with training on a regular basis regarding their obligations and duties under the policy and regarding procedures set forth in this section.

Issued: December 16, 1999
Revised: June 3, 2005
Revised: September 5, 2013
See N.J.A.C. 4A:7-3.1

EXHIBIT B

P.L. 2005, c. 51 / Executive Order No. 117
Certification of No Change

I, _____ the _____ of _____ (the “Underwriting Firm”) in connection with the Request for Qualifications for Underwriting Services (the “RFQ”) issued by the New Jersey Educational Facilities Authority (the “Authority”) do hereby certify that all information, certifications and disclosure statements previously provided in connection with P.L. 2005, c. 51, which codified Executive Order No. 134 (McGreevey 2004), as amended by Executive Order No. 117 (Corzine 2008), are true and correct as of the date hereof and that all such statements have been made with full knowledge that the Authority and the State of New Jersey shall rely upon the truth of the statements contained therein and herein in connection with the RFQ.

IN WITNESS WHEREOF, we have executed this Certification as of this _____ day of _____, 2018.

[NAME OF FIRM]

Submitted By: _____

Title: _____

Date: _____