

**REQUEST FOR PROPOSALS
FOR**

Student Loan Servicing Platform

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New Jersey Higher Education Student Assistance Authority

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1.0 PURPOSE AND INTENT

The New Jersey Higher Education Student Assistance Authority (“HESAA” or “Authority”), is seeking proposals for a replacement backend servicing platform for student loans.

Through this RFP, HESAA seeks to obtain the best system and system support services at the most favorable, competitive prices.

2.0 DEFINITIONS

The following definitions will be part of any contract awarded as a result of this RFP.

Addendum – Written clarification or revision to this RFP issued by HESAA.

Amendment – A change in the scope of services to be provided by the contractor. An amendment is not effective until it is signed by the Authority.

Back End System – System functions that are utilized by the lending organization’s personnel to service loans after disbursement.

Bidder – An individual or business entity that submits a proposal in response to this RFP.

Business day – Monday through Friday, excluding New Jersey State holidays.

Contract – This RFP, addenda to this RFP, the HESAA Standard Terms and Conditions, the contractor’s proposal submitted in response to this RFP, and best and final offer, contractual language agreed to by the contractor and HESAA governing the implementation of the services to be provided, and HESAA’s Notice of Intent to Award.

Contractor – The bidder awarded a contract resulting from this RFP.

Defects – A software defect/bug is a condition in a software product which does not meet a software requirement (as stated in the requirement specifications) or end-user expectations (which may not be specified but are reasonable). The defect results in a malfunction or incorrect/unexpected result.

e-OSCAR – A web-based, automated system that enables data furnishers and credit reporting agencies to create and respond to consumer credit history disputes.

FFELP – Federal Family Education Loan Program.

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 Authority unless there is a change in the scope of services.

IVR – Interactive Voice Response telephone system.

Hosted – means a loan system where the data resides on a central server/mainframe housed at a facility of the vendor. Remote access is provided to customers through a means determined by the vendor.

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

Loan – Loan includes all receivables collected by HESAA, including but not limited to NJCLASS, loan forgiveness refunds and repayment of grant awards.

May – Denotes that which is permissible, not mandatory.

NJCLASS – New Jersey College Loans to Assist State Students, as provided by N.J.S.A. 18A:71C-21 et seq.

Non – Hosted – means a system where the software is sold or leased to the customer and is housed on the server/mainframe of the customer.

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

Request for Proposal or RFP – This document which establishes the bidding and contract requirements and solicits proposals to meet the needs of the Authority for procuring a student loan processing platform.

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

Should – Denotes that which is recommended, not mandatory.

State – State of New Jersey.

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

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

System Conversion – Process by which existing HESAA portfolios are migrated to and reconciled with the contractor’s servicing platform as part of initiation of contract.

Task – A discrete unit of work to be performed.

Transaction – The payment or remuneration to the contractor for services rendered annually to the Authority pursuant to the terms of the contract, in accordance with the firm fixed price defined above.

3.0 BACKGROUND

The Authority was established by N.J.S.A. 18A:71A-1 et seq. in April 1999 to continue the mission of furthering access to postsecondary education by loans, grants, scholarships or other means. As part of that mission, HESAA is the guarantor of FFELP loans and administers the NJCLASS Program. The NJCLASS Program was established as a vehicle through which the Authority provides supplemental student loans to qualified New Jersey students attending a New Jersey institution or an out-of-state institution, and to qualified out-of-state students attending a New Jersey institution.

The NJCLASS Program encompasses multiple loan products. HESAA currently offers, is preparing to offer, or is servicing the following NJCLASS products:

Standard NJCLASS Loans

The NJCLASS program currently services five types of standard loan products for undergraduate and graduate students and for their families as outlined below:

Fixed Rate Options

Option 1 Ten-Year Loan which requires immediate repayment of principal and interest and carries the lowest interest rate. Interest rate on loan steps up by 75 basis points in 49th month of repayment. Currently an application fee of 3% is deducted from the loan proceeds at time of disbursement.

Option 1 Fifteen Year Loan which also requires immediate repayment of principal and interest and carries a higher interest rate than the ten-year option. Interest rate on loan steps up by 75 basis points in 49th month of repayment. Currently an application fee of 3% is deducted from the loan proceeds at time of disbursement.

Option 2 Fifteen Year Loan which requires immediate interest payments while deferring principal during the in-school period and carries the same interest rate as the Option 1 Loan. Interest rate on loan steps up by 75 basis points in 49th month of repayment. Currently an application fee of 3% is deducted from the loan proceeds at time of disbursement.

Option 3 Twenty Year Loan which defers principal and interest during the in-school period and carries the highest interest rate of the standard NJCLASS loan products. Interest on loan is capitalized annually during the in-school deferment period and the interest rate on loan steps up by 75 basis points in the 13th month of repayment. Interest is also capitalized whenever a loan that originally began in option 3 is granted a forbearance or deferment with full deferment of principal and interest payments. Currently an application fee of 3% is deducted from the loan proceeds at time of disbursement.

Variable Rate Option

Ten year Loan, which requires immediate repayment of principal and interest. The interest rate is based on the three-month LIBOR plus a fixed percentage, i.e.

margin, and adjusts quarterly while the payment amount adjusts annually. This loan contains both a floor and a ceiling. Beginning with the first payment that is due after August 1st of each year the monthly payment is recalculated to amortize the loan over the remaining term. There is no step up rate and currently no application fee is charged on the Variable rate loan.

Graduate/Professional Loans

The NJCLASS program offers loans modeled after the Option 1 Fifteen year, Option 2 and Option 3 loans outlined above. Interest on loan is capitalized annually during the in-school deferment period and the interest rate on loan steps up by 75 basis points in the 49th month of repayment. These loans have a term of 25 years. Currently an application fee of 3% is deducted from the loan proceeds at time of disbursement.

While interest rates for newly originated loans are fixed, there are also existing loans with variable interest rates. The interest rate for these loans is based on the 1 year Constant Maturity Treasury (CMT) plus a fixed percentage, i.e. margin, and adjusts annually in July. At the same time the payment amount adjusted to amortize over the remaining term of the loan. The loan contains both a floor and a ceiling.

Consolidation Loans

Consolidation Loans are available to existing NJCLASS borrowers with more than one NJCLASS loan and total indebtedness of \$30,000 or higher. The repayment term is either 25 or 30 years based upon the amount being consolidated. There is no step up rate for this loan. Currently an application fee of 1% is added to the consolidation loan amount at disbursement.

Refinance Loans

Refinance Loans are available to borrowers who want to lower the total amount spent on repaying their student loans by combining multiple loans into one single payment with a lower interest rate and a 10 year term. The interest rate on the NJCLASS ReFi+ loan is based on the borrower's credit score, with three rates currently available. Currently, only existing NJCLASS loans and federal PLUS loans are eligible for refinancing. There is no step up rate and no application fee is charged on the Refi+ loan.

The loan products and terms described above are those currently offered by the Authority. HESAA still services loans originated in earlier years of the NJCLASS program which had different terms, including the origination fee percentage, length of loan, frequency of interest capitalization, the borrower benefit of an interest rate reduction for payment by ACH, and variable rate graduate/professional loans with an annual interest rate reset.

Loans made since July 1, 2010 have a clause in the terms and conditions that when a loan is charged-off that the rate is set to the step-up rate. In case of variable rate loans originated after that date, the default rate is set to interest rate ceiling.

Where applicable, when the loan reaches a step-up rate, the monthly payment is recalculated over the remaining term of the loan.

Historically the NJCLASS program has permitted multiple parties on a loan including a borrower, co-borrower and up to two cosigners.

In addition, as the guarantor of FFELP loans, HESAA offers default aversion assistance, pays claims to lenders, services defaulted loans and reports on the guaranteed portfolio to the United State Department of Education.

4.0 SCOPE OF SERVICES

The design, development, implementation, and documentation of the system, project management and supporting services must be performed by the contractor.

The new student loan back end servicing platform should be able to support these major functional areas of back end student loan account management:

- Use of parameters within the servicing platform to control the proper servicing of loans;
- Conversion, onboarding and reconciliation of loans as they are originated to HESAA loan portfolios;
- Loan Disbursement;
- Loan servicing, including billing and collections activities for current as well as delinquent & defaulted loans; and
- Loan payment processing and portfolio accounting.

The proposal must explain how the proposed system supports each of the listed major functions, as itemized below, or how the bidder will address functions not currently supported by the proposed system.

1. Account adjustments: The system must be capable of posting corrections to transactions that occurred in previous accounting periods as a current period transaction, including an adjustment of previously accrued interest as part of the current period transaction. The adjustment transaction must also store accurate documentation and calculations of the previous transaction record that was adjusted. In addition, the system must be capable of automatically recalculating the delinquency data relating to a loan after an adjustment is made.
2. Accounting period close: The vendor's system must be capable of keeping an accounting period open beyond the closing date of the period in order to allow for posting of all transactions that have effective dates during that period to be posted prior to the production of period end reports. Simultaneously, transactions that do not have effective dates within that accounting period, but are processed before the system is closed for the month, are to be reflected on reports of the following period. Once an accounting period is closed, no transaction should be posted to that period. Future adjustments should be posted in the period they are made, with proper calculation of the effect of these adjustments based on the effective date of the adjustment.
3. Administrative Wage Garnishment (AWG): When an individual's earnings are administratively withheld, must have the ability to handle multiple simultaneous AWG actions against an individual and the other parties to an obligation, as well as the ability to handle automated matching against various external databases. All the loans that qualify for AWG for an individual are processed at the same time. If a loan is not included and later qualifies for AWG, a new AWG action is started. The AWG process needs to handle the follow components of the AWG process:

- a. Notice to individual;
 - b. Notice to Employer;
 - c. Administrative Hearing;
 - d. Suspension/Blocking of individuals from being administratively garnished; and
 - e. Reporting, including non-compliant employers.
4. Amortization Schedules: Need the ability to perform real-time calculations for customers to determine how long it will take to repay a loan at different payment amounts and interest rates based upon the remaining term of the loan. A level payment is calculated for the remaining loan term when a loan has not reached the step-up rate.
 5. Audit Trails - The system should enable users to add, change, view or delete data. There must be an audit trail to document all changes made to the data.
 6. Bankruptcy: Must be able to track and monitor individuals who have filed for bankruptcy, including receipt of incoming electronic notifications from the bankruptcy notification service. The system needs to correctly handle various types of bankruptcies. In the case of a party to the loan filing for Chapter 7 or Chapter 11, that the other parties are still sent delinquency letters and the appropriate individual is billed for the loan. For Chapter 12 or 13 bankruptcies, all collection activities, including billing, are stayed in accordance with the bankruptcy code.
 7. Billing:
 - a. Bill Statements: Bill statements need to be generated via paper and electronically on either a monthly or quarterly basis, depending on the terms of the loan. The system should have the flexibility to combine multiple loans into one statement, provide information on transactions that have occurred during the billing cycle, and contain specific or broadcast messages. The bill statement also must provide a scan line on the remittance document. The system needs to be able to send bills based on a level payment over the life of the loan concept, even though the interest rate for most types of loans increases at the time of interest rate step up.
 - b. Duplicate Billing: duplicate billing statements need to be generated upon request from a borrower.
 - c. Special Billing: special bills may be needed to allow for changes to a customers' bill or to support unique billing requirements.
 8. Boarding of New Loans: New loans need to be added to the system both manually and electronically through system to system connections, spreadsheets, and text files.
 9. Change of Address/Returned Mail Processing: Need to track and process the electronic file sent by the United States Postal Service advising HESAA of changes in the status of an individual's address, including but not limited to, forwarding, vacation holds, change of address and undeliverable.
 10. Charge-Off: Need to process and track loans that are charged off and placed for recovery.
 11. Check Requests: HESAA needs the ability to process, approve and generate a refund check, including approvals from supervisors in multiple units of HESAA. The system needs to track all such requests, and fulfillments of same, as part of the loan file.
 12. Collection Activity: Delinquent individuals need to be contacted for payment of a past due amounts, through phone calls, letters, emails, text messaging and other avenues that may be developed. The parameters for performing the collection activity need to be flexible and rule based. The system needs to record all collection activities in the servicing notes in a manner easily viewed by staff using a graphical user interface (GUI). The notes need to be able to be filtered, e.g. filter collection letters sent to a co-signer.
 - a. Promises to pay: promises to pay by the customer need to be tracked so appropriate action can be taken when payments are not made. Tracking includes, amount, frequency

- and duration of promised payments, whether the promise is made online or through an IVR system.
- b. Delinquency tracking: The system must be capable of simultaneously continuing to track and produce reports of the actual delinquency data relating to loans and the adjusted delinquency status when borrowers are given relief from delinquency by HESAA.
13. Compromise: Need the ability to settle a portion of a loan for less than the amount due and owing with one or more individuals obligated to the debt through the use of a financial transaction and to correctly generate a 1099C, when appropriate.
 14. Consumer Dispute: Upon receipt of a consumer dispute via the e-OSCAR, need to respond to the credit bureaus with updated information regarding a loan.
 15. Credit Bureau Interfaces
 - a. Credit Bureau Reporting: Individuals and the associated loan information is to be reported to the credit bureaus in compliance with the Fair Credit Reporting Act utilizing the Metro II format, and its successors.
 - b. Credit Bureau Requests: The system needs to provide a system to system interface for the staff to request a credit profile from the current credit bureau vendor for servicing and collection activities, where the response is presented and stored electronically.
 - c. Consumer Dispute: Upon receipt of a consumer dispute either via an interface with CDIA's e-OSCAR platform or a direct dispute, need to respond to the credit bureaus with updated information regarding a loan.
 16. Customer Identification adjustments: Need a streamlined process for authorized employees to make changes to Addresses, Names, Dates of Birth and Social Security numbers on borrower records when necessary due to identified errors.
 17. Customer Service: Staff need the ability to see summarized information regarding a customer and easily move between displays with information regarding an individual and the associated loans using a GUI interface. Staff needs access to all communications between the customer, all details of transactions shown in the loan's history, delinquency information and billing for a loan. The transaction history needs to show a running balance total. The system needs to track the authorization granted by the borrower to release information or grant access to third parties and needs the ability to provide electronic alerts to staff based upon the customers' preferences. Need to track and notify staff when working customers that have been identified as needing enhanced customer service.
 18. Death and Total and Permanent Disability: Need the ability to discharge all parties to the loan, or release one individual while the remaining parties remain obligated to repay the debt in the event of death or total and permanent disability of a beneficiary or party to the loan.
 19. Demographics Update and Storage: Demographic data for parties to loans needs to be stored, including the multiple types of scores obtained from external sources, such as recovery predictors and early warning scores. The system also needs to store Telephone Consumer Protection Act authorization on multiple telephone numbers. The system needs the ability to update demographic information, receiving information from various sources, recording the source, date and time of change.
 20. Disbursements: Need the ability to batch loan disbursement transactions, create electronic files of the batches and forward to the program trustee, an external entity, who in turn makes disbursements to educational institutions and individuals in the form of ACH transactions, Fed wires and checks. This includes the uploading of return files from the trustee that are used to record the loan disbursement on the back end system. Need to allow for multiple (two or more) number of disbursements and adjustments to a pending adjustments on a loan.

21. Dishonored checks: When dishonored checks are received, the transaction needs to be reversed and the loan balance adjusted appropriately, a notice generated to the individual, and reported to staff.
22. Document Management: Need the ability to create standard and customized communications to individuals over various platforms, including but not limited to U.S. mail, SMS, and email.
 - a. Archiving: At prescribed intervals documents need to be archived pursuant to document retention laws and policies. HESAA needs the ability to retrieve records from archives as needed.
 - b. Imaging: Incoming correspondence needs to be imaged, introduced into the workflow process, and become part of the loan's file.
 - c. Specialized mailings: Need to perform specialized large mailings, such as Annual Privacy Notices, Annual Capitalization Statements and changes to the loan programs.
23. Employee Account Monitoring: Need to track and monitor loans made to employees and their immediate family members.
24. Enrollment Tracking: Need to track enrollment status and update the status of the loan as applicable. The system needs to generate notices to borrowers advising of the change in status, e.g. conversion to repayment or being placed into deferment upon receipt of National Student Clearinghouse file, and document all actions in the borrowers' records. The system needs to be able to process a file received from the National Student Clearinghouse and there must be a process to review and correct exceptions online.
25. Exchange of information with third party vendors: Need the ability to exchange information with third parties, including but not limited to:
 - a. Files to and from Trustee, see disbursements and paid-in-full;
 - b. Enrollment /Clearinghouse updates, see enrollment tracking;
 - c. Equifax, see credit reporting;
 - d. Electronic payment processors; and
 - e. State of New Jersey
26. Portfolio conversion: The vendor selected by HESAA must be capable of converting all active loan records/data from HESAA's current loan system to the vendor's system. In addition, the vendor must be able to maintain aggregate and historical summary data.
27. Fees: The system needs to provide the flexibility to handle multiple types of fees, including those currently collected by HESAA, such as administrative fees, and those HESAA might collect in the future. Administrative fees may be deducted from the loan proceeds or added to the loan balance.
28. Flexibility: The system needs the flexibility to allow modifications at the loan level, There need to be controls in place to limit who has the authority to make changes, as well as an audit trail to track what changes are made and when they are made.
29. Fraud: The system needs to track claims that a loan was fraudulently obtained, and allow for the release of one or all parties to the loan. When warranted, substantiated claims need to be reported to the credit bureaus.
30. General Ledger: Need the ability to interface with HESAA's existing general ledger application.
31. Interest: The system needs to accrue simple daily interest. The system needs to accommodate multiple loan products with different interest rates, both fixed and variable and needs to calculate a step up or discount in the interest rate at a set time. For variable interest, the system needs the ability to handle a floor, ceiling, margin and various indexes as well as the ability to provide notices to customers in advance of interest rate changes taking effect. The system needs to have the

capability to suspend interest accrual for loans that have been placed in a status that requires no interest should accrue while it is in that status.

32. Litigation Processing/Tracking: Need ability to monitor and track files that have been placed with outside counsel for collection from the time of placement until satisfaction of the debt. The system needs to provide the functionality for integrating information from external sources.
33. Loan amount adjustments: Need ability to adjust the amount of the loan which can result in disbursement adjustments.
34. Maturity Processing/Tracking: The system needs to send a notification to the borrowers advising them of the estimated balance owing when a loan is nearing maturity. The system also needs to track after maturity when a balance is still due.
35. Paid-In-Full: When a loan is paid in full, the system needs to mark it as such, generate a notice to the parties to the loan and, where applicable, generate a file to the trustee when refunds are due to individuals.
36. Payment Methodologies: The system needs to support various payment application methodologies including but not limited to; Principal-Interest-Fees; Interest-Principal-Fees; Fees-Principal-Interest; and Fees-Interest-Principal. When a payment is made on a loan that is in a fully deferred repayment option, the payment is applied directly to principal.
37. Payment Application: The system must be capable of processing payments received through various sources and methods. Processing includes the ability to allocate all payments properly to individual loans in an account, and to interest, principal and fees, in whatever order required by HESAA. HESAA requires the ability to post transactions with an effective date other than the current date. Required sources and methods of payment include:
 - a. Credit Card Payments: If the system provides the ability for customers to make payments using a credit card, must ensure that the system is Payment Card Industry compliant.
 - b. Electronic lockbox payment processing: System must be capable of accepting electronic files of payments that have been created by individuals on their banks' on-line payment systems and converted to a daily batch of electronic payments by a third party processor.
 - c. Lockbox Payment processing: Need the ability to processes and post multiple daily batches of payments by check contained in electronic files received from third party processing agents.
 - d. Manual Payment Entry: Need the ability to manually enter and apply payments in real time.
 - e. Recurring ACH Payments: Need the ability for customers to set up a recurring payment through the National Automated Clearing House Association network in accordance with regulations.
 - f. Online payments: Need the ability to post payments made by customers through a secure web portal. Customers need the flexibility to decide how their payments are applied to their loans.
 - g. Upload from electronic files: Need the ability to upload and post batches of payments from multiple electronic file formats through a process initiated and controlled by HESAA.
38. Payoff Quotes: Need to provide parties to the loan with the amount necessary to pay off the loan(s) in full. The payoff needs to show a complete breakdown of the quote with a per diem cost. The quote needs to be generated as of the current business day and into the future, but only for business days.
39. Promissory Note Management/Tracking: The system needs to manage and track loans pledged as collateral (promissory notes). Pledged collateral needs to be reconciled against internal reports and/or files from external sources, such as collection counsel.

40. Red Flag Compliance: Need to monitor compliance with the Federal Trade Commission's Red Flag Rules and generate Red Flag compliance reports.
41. Relief processing/tracking: All types of relief, including deferments, forbearances and repayment assistance, need to be tracked and stored, including the start and end dates as well as the type of relief granted and the cumulative amount of relief time that has been granted on each loan. The system needs to provide flexibility to provide for the temporary cessation of principal, interest or both as well as the temporary cessation of interest accrual. Relief can be granted at either the borrower or loan level. The system needs to appropriately apply payments when received during a period of relief.
42. Research: Staff members need to be able to submit a task request to another staff member/unit having access to the system to research a loan, e.g. payment posting.
43. Reporting: the system must have the ability to generate customized reports and do portfolio queries, as well as the ability to provide the following:
 - a. Client/Investor Reporting: Need the ability to generate reports and files to clients and investors, including but not limited to trial balance and remittance processing, at various levels including portfolio and loan level.
 - b. Maintenance/Exception Reporting: Need the ability to generate reports providing exception information about loans from nightly batch processing.
 - c. Management Reporting: Need the ability to generate reports regarding the performance of loans, including but not limited to staff performance, roll analysis, loan aging, portfolio distribution, work-in-progress aging, loan transfer, investor/client reporting.
 - d. Statistical Reporting: Need the ability to generate reports on statistical information about loans.
 - e. Tax reporting: Need the ability to track interest, principal that is written off, and payments made on behalf of the borrower and report same to the IRS. Must include the ability to generate revised notices to the customer and electronic corrected notices to the IRS.
44. Servicemembers Civil Relief Act: Need to process and track accounts that are eligible for lower interest rates pursuant to the Servicemembers Civil Relief Act.
45. Set Off of Individual Liability (SOIL): The system needs to administer the process under which an electronic file containing charged-off accounts is submitted to the Division of Taxation. Monies from the State of New Jersey due to the individual are offset and applied to the charged-off debt.
46. Skip tracing: The system needs the ability to manage parties to the loan that have invalid demographic information, e.g. address, telephone number, email address including the ability to send and receive information from other vendors.
47. SSN Changes – The system must provide HESAA with the ability to change an individual's Social Security number when warranted, automatically updating associated loan records.
48. System Menu – The system must be menu-driven, meaning users may select the system displays they want from menus that appear on the display screen. The menus should divide the system into logical subsystems and prompt and assist users throughout. The system should also provide the option of "fastpathing" or moving directly to a target rather than navigating through the menus.
49. Tracking: The system needs to track and manage each loan from the moment it is loaded onto the system until it is archived, including all changes to status, levels of delinquency, updates to aging of the account, current balances, and payments made, including payments that are made in advance.
50. Telephone system integration: The system needs to be integrated with the contact center software so incoming telephone call information appears on staff's computer screen based upon

either information provided by the individual or based upon the telephone number used by the caller.

51. Vendor Interfaces

- a. Need the ability to transfer loans to different entities. Information being transferred ranges from general information through the complete servicing record of a loan. Need to provide internal (between units) and external reconciliation of accounts.
- b. Vendor Reconciliation: loans placed with an outside vendor, such as collections counsel, need to be reconciled in an automated manner. The reconciliation process needs to provide for aging analysis to highlight outstanding reconciliation items. Ideally would provide interface for same time access to accounts.

52. Web Portal: Customers need the ability to access their account information through a web portal, including the ability to make payments, obtain documents, send and receive secure communications, update their profile information and obtain information regarding the NJCLASS products.

53. Workflow processing: Need the ability to manage multiple work queues, providing managers with the ability to assign loans to different queues for staff to handle, and receive reports on the status of each queue.

5.0 REQUIRED COMPONENTS OF THE RFP PROPOSAL

5.1 General Information

- A. The proposal should include the name and address of the bidder as well as the name, telephone number and email address for the principal contact for the proposal.
- B. The proposal should include a comprehensive listing of Information Technology contracts of similar size and scope that the bidder has successfully implemented.
- C. The bidder's proposal should identify and provide resumes for the key personnel that will be assigned to the project for HESAA throughout all phases of system implementation including but not limited to ongoing support and maintenance.
- D. The bidder's response to the proposal should provide a description of the system being offered, including how the program meets each of the requirements described in 4.0 Scope of Services.
- E. The proposal should address the flexibility of the system to allow for new programs, and variations on servicing existing programs, including but not limited to the capabilities of the system to add additional functionality to service FFELP loans.
- F. The proposal should provide information on the volume capabilities of the system.
- G. While HESAA is not currently looking to purchase a loan originations platform, if the bidder's system provides an originations option, the proposal should address the capabilities of the originations platform, including whether it can be built into the servicing platform at a later date.

5.2 Technical Requirements

The bidder's response must identify whether the proposed system is a hosted or non-hosted solution. If both options are available, respond to both.

A. Non-Hosted Solution

Identify the software, hardware and network environments required to support the application.

B. Hosted Solution

All hosted solutions should provide HESAA with 24x7 assured system availability, with scheduled downtime for maintenance identified in advance. If responding with a hosted solution both logical and physical models must be supplied for:

1. Network Plan

The bidder must provide a network plan. The bidder shall maintain the bidder's network security that, at a minimum, includes: network firewall provisioning, intrusion detection and prevention, vulnerability assessments and regular independent third-party penetration testing. The bidder shall maintain network security that conforms to one of the following:

- a) Current standards set forth and maintained by the National Institute of Standards and Technology (NIST), including those at:
<http://web.nvd.nist.gov/view/ncp/repository>

Or

- b) Any industry recognized comparable security standard that the bidder then applies to its own infrastructure. Industry standards such as ISO 27002, PCI Data Security Standard and ISF Standard of Good Practice, align with security best practices from SANS and CISecurity.

2. Disaster Recovery/Business Continuity Plans

Describe your company's existing disaster recovery and business continuity plans. Explain how the plan(s) ensure effective risk management, disaster prevention, business recovery, and corporate awareness. Define how each of the following is included in the plan:

- a) Loss/catastrophe prevention
- b) Response procedures
- c) Recovery procedures
- d) Restoration timeframes
- e) Exercises (testing) of all procedures
- f) Corporate awareness and training
- g) Maintenance of plans and procedures

HESAA may determine a future need for a stand-by recovery environment for the loans

system as part of HESAA's Business Continuity Plan. Any additional software cost for a stand-by recovery license, if so required, is to be provided in your response. Options for enterprise license costs should be included in your response.

C. Hosted and Non-Hosted

1. Security Plan

The bidder must provide a security plan for both hosted and non-hosted solutions. The document shall describe the administrative, physical, technical and systems controls to be used by the system and/or services. The bidder's security plan must, at a minimum, provide security measures for the following areas:

- a) Facilities physical security
- b) System security
- c) System data security
- d) Administrative and personnel security

The security plan shall provide for review of the bidder's operations and control system. The bidder shall have the capability to detect and report attempted unauthorized entries into the facility and system. All security requirements for the bidder apply to development, testing, production and backup systems.

In addition, the security plan shall identify and define:

- a) Regulations and security requirements – how the bidder will address security requirements such as PCI, HIPAA, FISMA, etc.
- b) System, Administrative and Personnel Security - the security responsibilities of and supervision required for information owned and/or operated by the bidder. Security responsibilities include responsibilities for administration of the infrastructure, implementing or maintaining security and the protection of the confidentiality, integrity, and availability of information systems or processes.
- c) Workforce Security - the control process for hiring and terminating of bidder's employees, and method used for granting and denying access to the bidder's network, systems and applications. Identify and define audit controls when employment of the employee terminates.
- d) Role-based security access – the products and methods for role-based security and access to the bidder's infrastructure and access to the State's infrastructure.
- e) Account Management – the products and methods that identify and control the account types to meet identified regulation and security requirements. Single Sign-On (SSO) support and user authentication based on SAML (Security Assertion Markup Language) token.
- f) Single Sign-On (SSO) - support and user authentication based on SAML (Security Assertion Markup Language) token. Users should be able to easily navigate between bidder supported functions and existing HESAA functions.
- g) Password Management – the appropriate password management controls to meet defined regulation or security requirements.

- h) Logging / Auditing controls – the bidder’s audit control methods and requirements. The controls must address, at a minimum, all user access and user identification linked to any changes to the system and data, and provide an audit process that will make all audit data accessible to State and federal audit staff. The audit trail of all transactions shall track date, time, user and end-user device that initiated the transaction. The audit data must be protected, non-repudiated and restricted to updating authorized staff. Retention of the audit records will be retained online for at least ninety days and further preserved offline for as required by State and Federal laws and regulations.
- i) Incident Management – the methods for detecting, reporting and responding to an incident, vulnerabilities and threats. The methods are tested and exercised.
- j) Vulnerability / Security Assessment – the products and methods used for scanning bidder’s infrastructure for vulnerabilities and remediation of the vulnerabilities. Identify and define methods used for initiating and completing security assessments. All systems and applications must be subject to vulnerability assessment scans by an independent and accredited third party on an annual basis.
- k) Application Security – where the bidder is providing application hosting or development services, the bidder at a minimum must run application vulnerability assessment scans during development and system testing. Vulnerabilities must be remediated prior to production release.
- l) Anti-virus / Malware controls – the products and methods for anti-virus and malware controls that meet industry standards. It shall include policy statements that require periodic anti-viral software checks of the system to preclude infections and set forth its commitment to periodically upgrade its capability to maintain maximum effectiveness against new strains of software viruses.
- m) Network Security – where the bidder has access to State and Federal confidential data, and that data will traverse the bidder’s network, the bidder shall maintain provisioning, intrusion detection and prevention, denial of service protection, annual independent and accredited third party penetration testing, and maintain hardware inventory including name and network address. The bidder must maintain network security which conforms to current standards set forth and maintained by the National Institute of Standards and Technology (NIST).
- n) Server and infrastructure – the products and methods for "hardening" of the hardware’s operating systems.
- o) Transmission – the products and methods on how its system addresses security measures regarding communication transmission, access and message validation.
- p) Data Integrity – the products and methods on the integrity of all stored data and the electronic images, and the security of all files from unauthorized access. The bidder must be able to provide reports on an as-needed basis on the access or change for any file within the system.
- q) Database – the products and methods for safeguarding the database(s).
- r) Wireless, Remote and Mobile Access – where the bidder has access to State and Federal confidential data, and that data traverses the bidder’s network, the bidder shall have security controls for provisioning accounts, authorization, account/credential verification, audit/logging, VPN, and TCP/UDP ports restriction.
- s) Continuous Monitoring – where the bidder has access to State and Federal confidential data, and that data will traverse the bidder’s network, the bidder must

have products and methods for monitoring malicious activity, malware, intrusions and audit records within the bidder's network.

- t) Security Audit – the bidder shall allow State assigned staff full access to all operations for security inspections and audits which may include reviews of all issues addressed in the description of the security approach and willingness to enter into good faith discussion to implement any changes.
- u) Change / Configuration Management and Security Authorization – the bidder shall establish a change / configuration methodology, establish a baseline configuration and track changes to the configuration. Identify and maintain a list of software programs authorized to execute on the system. When the bidder has a major change to the system or application, HESAA's project manager must be notified and a security reauthorization must be approved.
- v) Risk Management – the bidder shall establish a risk management plan, technical and security risks are identified, reported and mitigated.

5.3 Role of Services

A. Contractor Responsibilities

The contractor shall assign a Project Manager to this project. The Project Manager is the individual ultimately responsible to the agency. The Project Manager's primary responsibility is to drive the entire project from start to finish. The Project Manager must ensure that the system is completed on schedule and that the final product meets the business, technical, and established quality requirements. The Project Manager will perform technical writing of system requirements and document/troubleshoot system defects under the direction of HESAA. The Project Manager must also ensure efficient daily operations, provide systems training and be a liaison between HESAA and the contractor.

The contractor's responsibilities include but are not limited to:

1. Developing a mutually agreeable detailed project plan and timetable. This includes planning, analysis, design, construction, testing, training and implementation. The contractor shall ensure all changes to scope follow mutually agreed upon change management processes and are documented;
2. Ensuring the project is kept on schedule by monitoring project milestones. The contractor shall take corrective actions if a project begins to deviate from the schedule;
3. Monitoring, testing and taking appropriate corrective action;
4. Preparing status reports on a regular basis for HESAA;
5. Communicating and working with HESAA to assess the status of project and identify any issues;
6. In conjunction with HESAA, conducting a program management evaluation review upon project completion; and
7. Analyzing and reviewing status reports and software quality assurance testing of the final product with HESAA.
8. The contractor must provide documentation in electronic format that shall be maintained throughout the project and maintenance/support contract period. The documentation shall include documents regarding the management of the project (project plans, data conversion

plans, disaster recovery plans, status reports, etc.) as well as technical and user documentation.

9. The contractor shall provide a description of their development release strategy as well as their quarterly and development release schedules.
10. On-site visits as needed, with a minimum of one visit per quarter.

B. HESAA's Responsibilities

HESAA will appoint a full time HESAA Project Manager that will work directly with the contractor's Project Manager. The HESAA Project Manager will have knowledge of the existing HESAA NJCLASS program, and the authority to execute the project. The contractor's Project Manager will report to the HESAA Project Manager.

5.4 Training

The contractor must develop and submit a training plan that addresses the following issues:

A. Training Material

1. The contractor shall be responsible for creating an end user's training guide.
2. The contractor shall provide HESAA with an electronic version of all user training materials.
3. The contractor shall also create and provide to HESAA any other necessary training aids, such as presentation outlines and audiovisual materials.
4. The contractor's training plan and approach shall include training on how to effectively utilize any online user aids.
5. All training materials shall be delivered to, and become the property of HESAA.
6. The contractor is responsible for conducting training.

B. Online User Aids

The contractor shall produce online user aids, including web page and field help, and an online user interface guide.

5.5 System Testing

The contractor must provide a system test plan to be approved by HESAA. If both a hosted and non-hosted solution are bid, the plan must address the testing requirements for both. All system testing plans must provide for establishment of a testing environment that mirrors the production environment. The contractor is responsible for synchronization of the user acceptance environment from the production environment on a mutually agreeable schedule. Live data must not be used in the contractor's unit test environment.

The contractor must provide comprehensive testing to validate functionality and performance.

Each phase of the testing shall require a report that summarizes the approach, scope, inputs and outputs, design errors, and corrective actions. Testing shall include but is not limited to the following:

A. Activities for System Testing

1. Installation of the System Test Environment
 - a) Implement all hardware and software required to mirror the production environment;
 - b) Load test data required for testing; and
 - c) Provide user access for testers with appropriate security roles.
2. Unit Testing
 - a) Scope, or aspect of the system tested;
 - b) Method for selecting cases;
 - c) Test cases;
 - d) Results;
 - e) System errors identified; and
 - f) Corrective action and ongoing maintenance requirements.
3. System Testing
 - a) Sequence for a complete system test;
 - b) Method for selecting cases;
 - c) Test cases;
 - d) Results and implications for overall system operation; and
 - e) Corrective action and ongoing maintenance requirements.
4. Stress / Performance Testing
 - a) Simulate 1000 concurrent users in a test environment comparable to production environment; and
 - b) Monitor end-to-end transactions and report on performance.
5. Application Program Interface Testing
6. Backup and Recovery Testing

5.6 User Acceptance

- A. HESAA staff and the contractor will jointly develop a User Acceptance Test Plan. HESAA requires pre-approval and User Acceptance Testing (UAT) of any solution before deployment. The contractor may be asked to assist in developing test cases. Successful testing criteria will be provided to the contractor. UAT Testing will be conducted simulating one state fiscal year and will include daily processing, monthly and annual processing. Parallel testing will occur for a period of two weeks and will encompass a month end.
- B. The contractor must provide system support for the duration of User Acceptance Testing. This includes running any scheduled batch jobs or data loads or extracts for interfaces. The contractor must provide performance monitoring for the duration of User Acceptance Testing. The contractor shall be responsible for the traceability between the requirements and the testing.

- C. The contractor must provide reports to the HESAA Project Manager as requested and at a minimum on a weekly basis regarding application defects.
- D. The contractor is responsible for responding to each defect. If it is agreed that the application is defective, the contractor must fix the application within 10 business days and implement the changes for retesting. The contractor must implement updated application code on a scheduled basis. This schedule must be published and furnished to the HESAA Project Manager.
- E. Readiness criteria must be prepared during User Acceptance Testing as well as a “go or no go” checklist.

5.7 Implementation

The contractor must develop and submit a fully detailed implementation plan, which must include but is not limited to:

- Implementation timeline;
- Implementation resource requirements;
- Hardware/software installation documentation plan and, if necessary, configuration documents;
- Data conversion activities;
- Business function rollout schedule;
- Itemization of pending system changes and possible impact on the HESAA implementation;
- Training;
- Help Desk support;
- Notification to the portfolio of what’s new.
- Production cutover activities; and
- Post-implementation support.

5.8 Post-Implementation Support and Maintenance

During the contract period, if changes occur in HESAA systems standards requiring modifications to hardware, software or components, such changes must be accepted through Change Order Management procedures. The contractor shall:

1. Provide required system and software modifications at no additional cost to HESAA; and
2. Shall notify HESAA if third-party software upgrades are required.

The contractor must provide a minimum warranty period for one (1) complete year from the completion of deployment and signed approval from HESAA. During the warranty period, the contractor must correct any element of the system that fails to perform in accordance with the requirements of this contract and/or published specifications. Corrective action by the contractor may include, but is not limited to, redesigning, repairing or replacing the nonconforming element.

The warranty shall provide that all software provided by the contractor is free from imperfections in design and free from any and all defects and is able to perform continuously and satisfactorily under normal operating conditions. The warranty following acceptance must include all parts, labor and travel expenses. Coverage and response time for remedial maintenance requests during the warranty period must be as defined in the remedial maintenance requirements of the proposal. The contractor shall assign all applicable third-party warranties for deliverables to HESAA. In the event of a critical system defect, as defined by HESAA, the contractor must resolve the issue within 72 hours.

The following is a list of post implementation operations and maintenance activities.

A. System Maintenance and Enhancement Activities

Software maintenance and enhancement must follow the definitions below:

1. System Maintenance:

- a) Refers to regular and routine work performed by the contractor on the HESAA system, and any ancillary systems or interfaces run by the contractor under this contract.
- b) Includes any work required to correct defects in the system operation as required to meet RFP requirements.
- c) Any routine file maintenance to update any information required for operation of the system items including, but not limited to, annual program changes; constructing new edits; investigating batch job failures; investigating and correcting application defaults; repairing jobs run incorrectly; repairing problems due to system hardware or software failures; repairing problems due to operator or schedule error; rectifying problems due to web page, program, object, class, scripts, control language, or database errors; repairing security problems; repairing and restoring corrupted files, table structures, and databases; rectifying incorrect documentation; and repairing problems due to jobs run with incorrect data.
 - i. The contractor must perform system maintenance at the direction of HESAA, and, as defined in the Scope of Work, for the component parts of the system after its implementation.
 - ii. If the contractor considers that any individual maintenance change requested by HESAA constitutes a system enhancement (as defined in this section), the contractor must advise HESAA in writing within ten (10) business days of receiving the request that the contractor considers the request a system enhancement. Both parties must agree in writing as to the classification of the request.
 - iii. The vendor shall establish an agreed upon maintenance schedule, which does not interfere with the HESAA production environment, unless a critical problem need to be corrected.

2. Adaptive and Preventive Maintenance Activities

- a) Adaptive and preventive maintenance addresses upgrades to the system due to technical changes to system components to keep the system maintainable, including the following services:

- i. Upgrades or patches of the application server, Windows components, Java virtual machine, operating system, RDMBS, or other system and application software;
 - ii. Software modifications and upgrades necessary because of expiring contractor support;
 - iii. Hardware, database, or application conversions that do not modify user functionality;
 - iv. One-time loads or reformats of user data;
 - v. Report distribution changes; and
 - vi. Disaster recovery plan activities.
 - b) All technical changes must be transparent to the user.
 - c) Adaptive release changes must be disclosed to HESAA.
 - d) For major upgrades requiring a more significant amount of time to develop, test, and implement, the changes should be completed as part of a scheduled development release or quarterly release.
 - 3. Performance Maintenance Activities
 - a) Performance maintenance addresses activities to improve the performance of the application and includes the following services:
 - i. Improve the performance, maintainability, or other attributes of an application system.
 - ii. Data table restructuring.
 - iii. Data purges to reduce/improve data storage.
 - iv. Run-time improvements.
 - v. Replace utilities to reduce run time.
 - vi. Potential problem correction.
 - vii. Data set expansions to avoid space problems.
 - b) Performance maintenance changes must be performed in a monthly patch release or, for major changes requiring significantly more time to develop, test, and implement, the changes shall be completed as part of a development release or quarterly release.
 - c) Activities that can typically be completed independent of a production release (e.g., data set expansions, data purges) may be completed on a more frequent basis (e.g., daily or weekly) with the HESAA Contract Manager approval.
 - 4. System Enhancement Activities
 - a) System enhancement includes changes to the system that are necessary to:
 - i. Meet new State statutory, regulatory and policy requirements;
 - ii. Meet new Federal statutes and regulations;
 - iii. Meet new technology requested by HESAA;
 - iv. Accommodate new loan programs or payment options; or
 - v. Accommodate new or updated interfaces requested by HESAA.
- B. Deliverables
1. The contractor must follow the agreed upon procedures to modify, test, and implement code.
 2. Updated Documentation
 - a) The contractor must update any documentation that has been previously created by the contractor to reflect the updated and enhanced functionality of the

- application/system at the time of deployment and any subsequent enhancements or modifications.
- b) The contractor must provide updated versions of all systems, user, training, and operations documentation prior to the implementation date.
 - c) Documentation includes but is not limited to:
 - i. Complete system operations and technical documentation;
 - ii. User manuals;
 - iii. Training manuals; and
 - iv. All operations procedures not covered in a user manual.

5.9 Fees

The bidder's price proposals should follow the below guidelines:

- A. Indicate any upfront fees such as licensing fees, whether charged on a one-time or recurring basis and indicate when such payments are due.
- B. Indicate the amount of any conversion costs or fees and the basis on which the cost is calculated.
- C. Indicate the amount and frequency of any periodic fees and the basis on which they are charged.
- D. Identify additional services offered and the unit or flat fee cost of these services.
- E. Indicate the pricing structure for development of custom features and applications when requested by clients.
- F. Explain the system de-conversion process. Indicate the pricing structure and associated fees for de-conversion of the system upon expiration of the contract.
- G. Provide examples of the highest and lowest implementation fees charged for similar projects.
- H. Provide an alternative cost proposal that would allocate the total cost of this procurement evenly over the five year term of the contract (i.e. on an annual installment basis).

5.10 Additional Information

- A. A copy of a valid New Jersey Business Registration must be submitted by the selected firm. To facilitate proposal evaluation and contract award process, the bidder shall submit the Business Registration form with the proposal. If not already registered with the New Jersey Division of Revenue, registration can be completed online at the Division of Revenue website: <http://www.state.nj.us/treasury/revenue/proofreg.shtml>. In addition, the selected firm will need to register with NJSTART.gov. If your firm is already registered with NJSTART, please provide your vender ID number.
- B. Pursuant to Public Law 2005, Chapter 51 (Chapter 51) State departments, agencies and authorities are precluded from awarding contracts exceeding \$17,500 to bidders who make certain political contributions on and after October 15, 2004, to avoid any appearance that the selection of State contractors is based on the contractors' political contributions. Chapter 51 also requires the disclosure of all contributions to any political organization organized under 26 U.S.C.A. 527 that also meets the definition of a continuing political committee within the meaning of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The firm shall submit the required certification form(s) and disclosure form(s) with its proposal. Failure to submit such forms and/or failure of such forms to evidence compliance with Chapter 51 shall be cause for rejection of the firm's proposal. Any firm selected shall maintain compliance with Chapter 51 during the term of its engagement.

- C. Pursuant to Public Law, 2005 Chapter 271 (Chapter 271) firms must disclose their (and their principals') political contributions within the immediately preceding twelve (12) month period. No prospective firm will be precluded from being awarded a contract by virtue of the information provided in the Chapter 271 disclosure provided the form is fully and accurately completed. Prior to formal appointment the firm anticipated to be selected will be required to submit Chapter 271 disclosures. To facilitate proposal evaluation and contract award process, the bidder shall submit the Chapter 271 disclosure with the proposal.

Please also be advised of your 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 if your firm receives contracts in excess of \$50,000 from a public entity during a calendar year. It is your firm's responsibility to determine if filing is necessary. Failure to file can result in the imposition of financing penalties by ELEC. Additional information about this requirement is available from ELEC at (888) 313-3532 or www.elec.state.nj.us.

- D. In accordance with Public Law 2005, Chapter 92, all services performed pursuant to this engagement shall be performed within the United States of America.
- E. Pursuant to Public Law 1995, Chapter 159, effective January 1, 1998 and notwithstanding the provision of any other law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off so much of that payment as shall be necessary to satisfy the indebtedness. The amount set-off shall not allow for the deduction of any expense or other deduction which might be attributable to the taxpayer, partner, or shareholder subject to set-off under this Act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer, partner or shareholder and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under N.J.S.A.54:49-19. No request for conference, protest, or subsequent appeal to the Tax Court from any protest shall stay the collection of the indebtedness.

F. **CERTIFICATION OF NON-INVOLVEMENT IN PROHIBITED ACTIVITIES IN IRAN**

Pursuant to N.J.S.A. 52:32-58, the bidder must certify that neither the bidder, nor one 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.

- G. The Terms and Conditions set forth in Attachment 1 – HESAA Terms & Conditions, are material terms of any contract resulting from this RFP.

6.0 PROPOSAL SUBMISSION

6.1 Delivery

One original and four copies of the proposal must be marked "Student Loan Servicing Platform" and be delivered no later than 4:00 pm on May 14, 2018 to the following:

Marnie Grodman, Esquire
Director, Legal & Governmental Affairs
New Jersey Higher Education Student Assistance Authority
4 Quakerbridge Plaza
P.O. Box 545
Trenton, NJ 08625-0545

Proposals **overnighted to the Authority must use the local address zip code of 08619**. Proposals may not be delivered by fax.

In addition, a pdf of the proposal must be email to rsorrentino@hesaa.org no later than 4:00 pm on May 14, 2018. Both print and email versions of the proposal must be received by the deadline to be considered.

6.2 Questions

HESAA will accept questions pertaining to this RFP from all potential bidders electronically. Questions shall be directed to Roseann Sorrentino, at the following email address:

rsorrentino@hesaa.org

Questions will be accepted until 4:00 pm on March 16, 2018. In the event that it becomes necessary to clarify or revise this RFP, such clarifications or revisions will be by addendum. Any addendum to this RFP will become part of this RFP and part of any contract entered as a result of this RFP.

The Authority also reserves the right to distribute additional background information or material to all bidding firms.

ALL RFP ADDENDA WILL BE POSTED ON THE HESAA WEBSITE.

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

6.3 Cost liability

HESAA will not be responsible for any expenses in the preparation and/or presentation of the proposals and oral interviews, if any, or for the disclosure of any information or material received in connection with the solicitation, whether by negligence or otherwise.

7.0 SPECIAL TERMS & CONDITIONS

7.1 Term

The initial term for the contract entered as a result of this RFP shall be five years and shall be automatically extended for an additional one year on each expiration date unless terminated by either party. Annual fees shall be subject to adjustment at the end of the initial term of the contract entered as a result of this RFP and annually thereafter.

7.2 Termination

HESAA reserves the right to terminate any agreement entered into as a result of this RFP provided written notice has been given to the firm at least thirty (30) days prior to such proposed termination date unless otherwise provided herein. The contractor may terminate the contract upon notice of sixty (60) days to the Authority. At contract termination, the contractor must cooperate fully with HESAA and the new contractor to affect a smooth transition.

7.3 Transition

In the event the services are scheduled to end either by contract expiration or by termination, it shall be incumbent upon the contractor to continue the service, if requested by HESAA, until new services can be completely operational. The vendor will be reimbursed for this service at the rate in effect when this transitional period clause is invoked by HESAA.

7.4 Compliance

The selected firm must comply with all local, State and federal laws, rules and regulations applicable to the engagement and to services performed there under.

7.5 Contract

The contract entered as a result of this RFP will consist of this RFP, any Addendum to this RFP provided pursuant to Section 6.2 of this RFP, the firm's bid proposal, and the Authority's Letter of Intent to Award.

In the event of a conflict between the provisions of this RFP, including the Terms and Conditions, Attached hereto as Attachment 1, and any addendum to the 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 proposal, the RFP and/or the addendum shall govern. See ATTACHMENT 1 for the HESAA Terms and Conditions.

In the event that it becomes necessary to revise, modify, clarify or otherwise alter the contract resulting from the RFP, amendments will be in writing signed by an authorized representative of HESAA and the contractor selected as a result of this RFP.

7.6 Open Public Records Act

All documents submitted in response to this RFP are subject to disclosure by HESAA as “government records” under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. A Contractor may assert that specific information is exempted from disclosure under that Act. Upon receiving a request for such information, HESAA will advise the Contractor if any such information is not deemed to be exempted. The location in the bid proposal of any such asserted exemption should be clearly stated in a cover letter. HESAA will not honor attempts by Contractors either to designate their entire bid proposal as proprietary and/or to claim copyright protection for their entire proposal.

7.7 Price Alteration

Proposal 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.

7.8 Proposal Errors

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

If, after the proposal submission opening but before contract award, a bidder discovers an error in its proposal, the bidder may make a written request to Marnie Grodman 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 HESAA or the State will not be significantly prejudiced by granting the withdrawal of the proposal. After the proposal submission opening, while pursuant to the provisions of this section, a bidder may request to withdraw its proposal and HESAA may, in its discretion, allow the bidder to withdraw it; HESAA also may take notice of repeated or unusual requests to withdraw by a bidder and take those prior requests to withdraw into consideration when evaluating the bidder’s proposals.

All proposal withdraw requests must identify the RFP “Loan System Platform,” include the final proposal submission date and be sent to the following address:

Marnie Grodman, Esquire
Director, Legal & Governmental Affairs
New Jersey Higher Education Student Assistance Authority
4 Quakerbridge Plaza
P.O. Box 545
Trenton, NJ 08625-545

If during a proposal evaluation process, an obvious pricing error made by a potential contract awardee is found, HESAA shall issue a written notice to the bidder. The bidder will have five days after receipt of the notice to confirm its pricing. If the bidder fails to respond, its proposal 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 the extended price and the bidder's intention is not readily discernible from other parts of the proposal, HESAA may seek clarification from the bidder to ascertain the true intent of the proposal.

7.9 Joint Venture

If a joint venture submits a proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's proposal. Authorized signatories from each party comprising the joint venture must sign the proposal. A separate Ownership Disclosure Form, Disclosure of Investigations and Actions Involving Bidder form, Disclosure of Investment Activities in Iran form, and Affirmative Action Employee Information Report must be supplied for each party to a joint venture. NOTE: Each party comprising the joint venture must also possess a valid Business Registration Certificate issued by the Department of the Treasury, Division of Revenue prior to the award of a contract. Refer to Section 5.5 of this RFP.

7.10 Security and Confidentiality

Any bidder and/or contractor must implement and adhere to all of the FISMA guidelines and controls required by the NIST Special Publication, (SP) 800-53, titled "Security and Privacy Controls for Federal Information Systems and Organizations."

A. DATA CONFIDENTIALITY

All data contained in the source documents supplied by the Authority are to be considered confidential and shall be solely for the use of the Authority. The contractor will be required to use reasonable care to protect the confidentiality of the data. Any use, sale or offering of this data in any form by the contractor, his/her employees or assignees will be considered in violation of this contract and will cause infraction to be reported to the State Attorney General for possible prosecution. Penalties for violations of such guarantees will include, but are not limited to, cancellation of contract and/or legal action with no damages paid by the Authority or the State of New Jersey.

All financial, statistical, personnel, customer and/or technical data supplied by HESAA to the contractor are confidential. The contractor must secure all data from manipulation, sabotage, theft or breach of confidentiality. The contractor is prohibited from releasing any financial, statistical, personnel, customer and/or technical data that is deemed confidential. The following shall not be considered confidential information and shall not be subject to the provisions of this section 7.10 A.: Any information that (a) was in contractor's possession before receipt from a data owner; (b) is independently developed or acquired by or for contractor without use of a data owner's proprietary information; (c) is rightfully received by contractor from a third party without a duty of confidentiality; (d) was disclosed by a data owner to a third party not under an obligation

of confidentiality; or (e) is or becomes available to the public through no fault of contractor. Contractor will not release any confidential information to a third party without the consent of the data owner unless required in order to comply with judicial or administrative process. Prior to releasing a data owner's confidential information in response to judicial process, the contractor shall give the data owner advanced written notice of the subpoena, if not legally prohibited, and provide the data owner the opportunity to object to the required disclosure. Any other use, sale, or offering of this data to a third party without the data owner's consent 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. The contractor shall be liable to HESAA for a breach of confidentiality subject to the insurance requirements set forth in this RFP.

The contractor shall assume total financial liability incurred by the contractor associated with any breach of confidentiality.

When requested, the contractor and all project staff including its subcontractor(s) must complete and sign confidentiality and non-disclosure agreements provided by HESAA. The contractor shall require all staff to view yearly security awareness and confidentiality training modules provided by the contractor. It shall be the contractor's responsibility to ensure that any new staff sign the confidentiality agreement and complete the security awareness and confidentiality training modules within one month of the employee's start date.

Security clearance/background check for all contractors and project staff must be obtained and provided to HESAA (to protect the State of New Jersey from losses resulting from contractor employee theft, fraud or dishonesty) upon request. Refer to the National Institute of Standards and Technology (NIST) Special Publication (SP) 300-12, An Introduction to Computer Security: The NIST Handbook, Section 10.1.3, Filling the Position – Screening and Selecting.

B. SECURITY STANDARDS

1. Network Security: The contractor shall maintain the contractor's network security that -- at a minimum -- includes: network firewall provisioning, intrusion detection and prevention, vulnerability assessments and regular independent third party penetration testing. The contractor shall maintain network security that conforms to current standards set forth and maintained by the National Institute of Standards and Technology (NIST).
 - The contractor shall be subject to the same security and infrastructure review processes that are required by NJOIT and its partner Departments and Agencies. The contractor shall submit relevant documentation and participate in the System Architecture Review (SAR) process.
 - For "outsourced hosting services," the contractor must demonstrate the ability to not only secure the physical application infrastructure utilizing the above-mentioned security requirements, but also control and secure physical access to the application hosting facilities, the racks supporting network infrastructure and processing server equipment, web, application and database servers.

- If the contractor is not supplying “dedicated” hardware resources to host HESAA applications and data, the contractor must demonstrate its strategy to maintain application and/or stack isolation using commercially available security devices to maintain security zones, routing isolation and access control to infrastructure devices and access/security logging (AAA) within its infrastructure.
 - The contractor shall provide a detailed system design document showing a Network Plan, Disaster Contingency Plan and Security Plan. Logical and physical diagrams are required.
2. Application Security: The contractor at a minimum shall run application vulnerability assessment scans during development and system testing. Vulnerabilities shall be remediated prior to production release.

All systems and applications shall be subject to Vulnerability Assessment scans on a regular basis.

3. Data Security: The contractor at a minimum shall protect and maintain the security of data in accordance with generally accepted industry practices and to the standards and practices required by NJDOIT.

Any Personally Identifiable Information must be protected. All data must be classified in accordance with the State’s Asset Classification and Control policy, 08-04-NJOIT (www.nj.gov/it/ps). Additionally, data must be disposed of in accordance with the State’s Information Disposal and Media Sanitation policy, 09-10-NJOIT (www.nj.gov/it/ps).

Data usage, storage, and protection is subject to all applicable federal and state statutory and regulatory requirements, as amended from time to time, including, without limitation, those for Health Insurance Portability and Accountability Act of 1996 (HIPAA), Personally Identifiable Information (PII), Tax Information Security Guidelines for Federal, State, and Local Agencies (IRS Publication 1075), New Jersey State tax confidentiality statute, N.J.S.A. 54:50-8, New Jersey Identity Theft Prevention Act, N.J.S.A. 56:11-44 et seq., the federal Drivers’ Privacy Protection Act of 1994, Pub. L. 103-322, and the confidentiality requirements of N.J.S.A. 39:2-3.4. Contractor shall also conform to Payment Card Industry (PCI) Data Security Standard.

4. Data Transmission: The contractor shall only transmit or exchange HESAA data with other parties when expressly requested in writing and permitted by and in accordance with requirements of the State of New Jersey. The contractor shall only transmit or exchange data with HESAA or other parties through secure means supported by current technologies. The contractor shall encrypt all data defined as personally identifiable or confidential by HESAA or applicable law, regulation or standard during any transmission or exchange of that data. All data transmissions which include personally identifiable information (PII) must be encrypted.
5. Data Storage: All data provided by HESAA or gathered by the contractor on behalf of HESAA must be stored, processed, and maintained solely in accordance with a project plan and system topology approved by the HESAA Contract Manager. No HESAA data shall be processed on or transferred to any device or storage medium including portable media, smart devices and/or USB devices, unless that device or storage medium has been approved in advance in writing by the HESAA Contract Manager.

6. **Data Scope:** All provisions applicable to data include data in any form of transmission or storage, including but not limited to: database files, text files, backup files, log files, XML files, and printed copies of the data.
7. **Data Re-Use:** All HESAA provided data shall be used expressly and solely for the purposes enumerated in the contract. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of the contractor. No HESAA data of any kind shall be transmitted, exchanged or otherwise passed to other contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by the HESAA Contract Manager.
8. **Data Breach: Unauthorized Release Notification:** The contractor shall comply with all applicable State and Federal laws that require the notification of individuals in the event of unauthorized release of personally-identifiable information or other event requiring notification. In the event of a breach of any of the contractor's security obligations or other event requiring notification under applicable law ("Notification Event"), the contractor shall assume responsibility for informing the HESAA Contract Manager and all such individuals in accordance with applicable law and to indemnify, hold harmless and defend HESAA, its officials, and employees from and against any claims, damages or other harm related to such Notification Event.
9. **End of Contract Data Handling:** Upon termination of this contract, the contractor shall maintain all financial data. The contractor shall erase, destroy, and render unreadable all contractor copies of non-financial HESAA data according to the standards enumerated in accordance with the State's Information Disposal and Media Sanitation Policy, 09-10-NJOIT (www.nj.gov/it/ps) and certify in writing that these actions have been completed within 30 days of the termination of this contract or within seven days of the request of an agent of HESAA, whichever shall come first.
10. **Security Audit:** The Authority has the option to conduct a Security Audit. If HESAA exercises this option, the contractor must allow HESAA assigned staff full access to all operations for security inspections and audits which may include reviews of all issues addressed in description of the security approach and willingness to enter into good faith discussions to implement any changes.

C. SECURITY PLAN

The contractor must provide a copy of its system security plan. The document shall describe the administrative, physical, technical and systems controls to be used by the system and/or services. The contractor's security plan must, at a minimum, provide security measures for the following areas:

- Facilities Physical Security
- System Security
- System Data Security
- Administrative and Personnel Security

The security plan shall provide for review of the contractor's operations and control system. The contractor shall have the capability to detect and report attempted unauthorized entries into the facility and system. All security requirements for the contractor apply to development, testing, production and backup systems.

The contractor shall provide a summary overview of the security document and describe how it has been incorporated into a larger security program for automated data processing. In the plan, the contractor shall highlight security features in the system.

In addition, the security plan shall identify and define:

1. Regulations and security requirements -- how the contractor will address security requirements including but not limited to PCI, HIPAA, FISMA, and cybersecurity, including compliance monitoring updates;
2. System, Administrative and Personnel Security -- the security responsibilities of and supervision required for information owned and/or operated by the contractor. Security responsibilities include responsibilities for administration of the infrastructure, implementing or maintaining security and the protection of the confidentiality, integrity, and availability of information systems or processes;
3. Workforce Security -- the control process for hiring and terminating of contractor's employees, and method used for granting and denying access to the contractor's network, systems and applications. Identify and define audit controls when employment of the employee terminates;
4. Role based security access -- the products and methods for role based security and access to the contractor's infrastructure and access to HESAA's infrastructure;
5. Password Management -- the appropriate password management controls to meet defined regulation or security requirements;
6. Logging/Auditing Controls -- the contractor's audit control methods and requirements;
7. Incident Management -- the methods for detecting, reporting and responding to an incident, vulnerabilities and threats;
8. Vulnerability/Security Assessment -- the products and methods used for scanning contractor's infrastructure for vulnerabilities and remediation of the vulnerabilities. Identify and define methods used for initiating and completing security assessments.
9. Anti-virus/malware controls -- the products and methods for anti-virus and malware controls that meet industry standards. It shall include policy statements that require periodic anti-viral software checks of the system to preclude infections and set forth its commitment to periodically upgrade its capability to maintain maximum effectiveness against new strains of software viruses;
10. Firewall -- the products and methods for firewall control process and intrusion detection methodology;
11. Database -- the products and methods for safeguarding the database(s);
12. Server and infrastructure -- the products and methods for "hardening" of the hardware operating systems;
13. Transmission -- the products and methods on how its system addresses security measures regarding communication transmission, access and message validation; and
14. Data Integrity -- the products and methods on the integrity of all stored data and the electronic images, and the security of all files from unauthorized access. The contractor must

be able to provide reports on an as-needed basis on the access or change for any file within the system.

7.11 Privacy Policy

The contractor is responsible for adhering to the Authority privacy policy and ensuring that any subcontractors to the prime contractor also adhere to the policy. The Authority retains the right to seek any and all legal remedies in the event of a breach of the privacy policy by the prime contractor or any subcontractor.

7.12 News Releases

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

7.13 Advertising

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

7.14 Licenses & 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 HESAA 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 proposal.

7.15 Claims & Remedies

A. CLAIMS

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

B. REMEDIES

Nothing in this contract shall be construed to be a waiver by HESAA 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 Executive Director of HESAA.

7.16 Additional Work and/or Special Projects

The pricing response in this RFP is intended to be all-inclusive; the Authority anticipates that no additional work or special projects will be necessary. However, the Authority recognizes that changes in federal and state law and regulations over the course of the term of the contract may create additional work required from the contractor.

In the event of additional work and/or special projects, the contractor must present a written proposal to perform the additional work to HESAA. 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 proposal submitted in response to this RFP. Whenever possible, the price schedule should be a firm, fixed price to perform the required work. The firm fixed price should specifically reference and be tied directly to costs submitted by the contractor in its original proposal. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

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

7.17 Liquidated Damages

HESAA and the bidder (the "Parties") agree that it would be extremely difficult to determine actual damages which HESAA will sustain as the result of the contractor's failure to meet the performance requirements of the contract. Any breach by the contractor will: adversely impact HESAA's ability to meet federal commitments; and disrupt operations and HESAA's ability to adjudicate claims, which may lead to damages suffered by HESAA. Therefore, the Parties agree that the liquidated damages specified are reasonable estimates of the damages HESAA may sustain from the contractor's performance deficiencies set forth within this section and are not to be construed as penalties.

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

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

A. NOTIFICATION OF LIQUIDATED DAMAGES

Upon determination that liquidated damages are to be assessed, HESAA shall notify the contractor of the assessment in writing. The availability of any period of cure will depend on the situation and will be in the sole discretion of HESAA. HESAA may, in its sole discretion, elect to notify the contractor that liquidated damages may be assessed so as to provide a warning, prior to assessing them in accordance with this section, but if HESAA does not provide such a warning the Authority is not precluded from assessing liquidated damages in accordance with this contract.

B. CONDITIONS FOR TERMINATION OF LIQUIDATED DAMAGES

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

1. The contractor corrects the condition(s) for which liquidated damages were imposed;
2. The contractor notifies HESAA in writing that the condition(s) has (have) been corrected; and
3. HESAA has verified all correction(s) after appropriate verification.

C. SEVERABILITY OF INDIVIDUAL LIQUIDATED DAMAGES

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

D. WAIVER OF LIQUIDATED DAMAGES/LIQUIDATED DAMAGES NOT EXCLUSIVE REMEDY

The waiver of any liquidated damages due HESAA shall constitute a waiver only as to such assessment of liquidated damages and not a waiver of any future liquidated damage assessments. Failure to assess liquidated damages or to demand payment of liquidated damages within any period of time shall not constitute a waiver of such claim by HESAA.

E. PAYMENT OF LIQUIDATED DAMAGES

Once assessed pursuant to Section 7.18, liquidated damages will be deducted from any moneys owed to the contractor by HESAA, and in the event the amount due the contractor is not sufficient to satisfy the amount of the liquidated damages, the contractor shall pay the balance to HESAA within 30 calendar days of written notification of the assessment. If the amount due is not paid in full, the balance will be deducted from subsequent payments to the contractor.

7.18 Record Retention

All records created as a result of this project shall be retained in their original form by the contractor or in other forms agreed to by the Authority for no less than five years after contract completion, plus any additional period required by federal or state statutes, regulations or guidelines. At the end of a contract period, the contractor must be prepared to transfer, in a manner specified by the Authority, all records to the Authority or to the successor contractor as directed by the Authority.

7.19 Severability

In the event that any provision of this RFP or any agreement executed in accordance herewith shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision.

8.0 SELECTION PROCESS

8.1 Minority & Women Owned Firms

Particular consideration will be given to firms with a presence in New Jersey and for minority-owned and women-owned firms.

8.2 Evaluation Criteria

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

- 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; and
- F. Cost.

8.3 Interviews

The Authority reserves the right to schedule interviews with, and to request additional information from, any and all firms.

8.4 Right to Waive

The Authority reserves the right to (i) cancel this solicitation; (ii) reject any and all responses to this request; (iii) waive any requirements or minor informalities; (iv) modify or amend, with consent of the submitting firm, any statements; (v) request that some or all respondents submit additional information not covered by the Request for Proposal which, in the view of the Authority, would be germane to its decision; (vi) negotiate the proposal of the potential provider

that, in the Authority's sole discretion, will best meet the Authority's needs; and (vii) affect any agreement deemed by the Authority to be in its best interests or in the best interests of the State.

8.5 Proposal Discrepancies

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

8.6 Negotiation and Best and Final Offer (BAFO)

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

Similarly, HESAA may invite one bidder or multiple bidders to submit a best and final offer (BAFO). Said invitation will establish the time and place for submission of the BAFO. Any BAFO that is not equal to or lower in price than the pricing offered in the bidder's original proposal will be rejected as non-responsive and HESAA will revert to consideration and evaluation of the bidder's original pricing.

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

Negotiations will be conducted only in those circumstances where they are deemed by HESAA to be in HESAA's best interests and to maximize HESAA's ability to get the best value. Therefore, the bidder is advised to submit its best technical and price proposal in response to this RFP since HESAA may, after evaluation, make a contract award based on the content of the initial submission, without further negotiation and/or BAFO 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, and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

8.7 Board Approval

Appointment of a firm is subject to approval by the Authority's Board.

- Attachments:
1. HESAA Terms & Conditions
 2. Ownership Disclosure
 3. Affirmative Action Principles
 4. Source Disclosure
 5. Chapters 51 and EO 117 Certification and Disclosure
 6. Chapter 271 Certification and Disclosure
 7. Disclosure of Investment Activities in Iran
 8. MacBride Principles
 9. Disclosure of Investigations

**HIGHER EDUCATION STUDENT ASSISTANCE AUTHORITY
STANDARD TERMS AND CONDITIONS**

- 1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT** - Unless the bidder/offeror is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to all contracts or purchase agreements made with the Higher Education Student Assistance Authority (“HESAA” or the “Authority”). These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for HESAA to consider. Any conflicting terms and conditions that HESAA is willing to accept will be reflected in an addendum to the RFP. The Authority’s terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's proposal that were not submitted through the question and answer process and approved by the Authority. Nothing in these terms and conditions shall prohibit HESAA from amending a contract when it is determined to be in the best interests of the Authority.

- 2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS** -
- 2.1 BUSINESS REGISTRATION** – Pursuant to N.J.S.A. 52:32-44, the Authority is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the “Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all their sales of tangible personal property delivered into the Authority. Any questions in this regard can be directed to the Division of Revenue at (609) 292-9292. Form NJ-REG can be filed online at <http://www.state.nj.us/treasury/revenue/busregcert.shtml>.
- 2.2 ANTI-DISCRIMINATION** - All parties to any contract with the Authority agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference.
- 2.3 PREVAILING WAGE ACT** - The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq. is hereby made part of every contract entered into on behalf of the Authority, except those contracts which are not within the contemplation of the Act. The bidder's submission of this proposal is their guarantee that neither they nor any subcontractors they might employ to perform the work covered by this proposal has been suspended or debarred by the Commissioner, Department of Labor for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder’s submission of the proposal is also their guarantee that they and any subcontractors they might employ to perform the work covered by this proposal shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

- 2.4 AMERICANS WITH DISABILITIES ACT** - The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101, et seq.
- 2.5 MACBRIDE PRINCIPLES** – The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom’s Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.
- 2.6 PAY TO PLAY PROHIBITIONS** – Pursuant to N.J.S.A. 19:44A-20.13 et seq. (L.2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:
- a. make or solicit a contribution in violation of the statute;
 - b. knowingly conceal or misrepresent a contribution given or received;
 - c. make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 - d. make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or to any State or county party committee;
 - e. engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself would subject that entity to the restrictions of the Legislation;
 - f. fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 - g. engage in any exchange of contributions to circumvent the intent of the Legislation; or
 - h. directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.
- 2.7 POLITICAL CONTRIBUTION DISCLOSURE** – The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one or more contracts valued at \$50,000.00 or more. It is the contractor’s responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888) 313-3532 or on the internet at <http://www.elec.state.nj.us/>.
- 2.8 STANDARDS PROHIBITING CONFLICTS OF INTEREST** - The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).
- a. No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Authority or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by

- N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g.
- b. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the State Ethics Commission.
 - c. No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the State Ethics Commission, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.
 - d. No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
 - e. No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.
 - f. The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

2.9 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE - Pursuant to L 1995, c. 159, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set-off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set-off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under N.J.S.A. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the

indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

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

2.11 COMPLIANCE - STATE LAWS - It is agreed and understood that any contracts and/or orders placed as a result of this proposal shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the STATE OF NEW JERSEY.

2.12 AFFIRMATIVE ACTION - The bidder is required to complete the attached Affirmative Action Employee Information Report, AA302, or in the alternative, supply either a New Jersey Affirmative Action Certificate or evidence that the bidder is operating under a federally approved or sanctioned affirmative action program. The requirement is a precondition to entering into a State contract.

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

3.1 SERVICE PERFORMANCE WITHIN U.S. – Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Authority shall be performed within the United States, except when the Director of Legal & Governmental Affairs 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 Executive Director.

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

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

4. INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION - The contractor's liability to the Authority and its employees in third party suits shall be as follows:

a. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the Authority and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or un-

copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

- b. The contractor's indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions.
- c. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the Authority the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE - The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A- VIII or better rating by A.M. Best & Company. The contractor shall provide the Authority with current certificates of insurance for all coverages and renewals thereof, and the certificates shall reflect that the insurance policies shall not be canceled for any reason except after sixty (60) days written notice to the Authority. Certificates of renewals shall be provided within thirty (30) days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the Authority until evidence of the required insurance is provided. The certificates of insurance shall indicate the title of the contract in the Description of Operations box and shall list the Higher Education Student Assistance Authority, PO Box 545, Trenton, New Jersey 08625 in the Certificate Holder box.

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

- a. Occurrence Form Comprehensive General Liability Insurance or its equivalent: The minimum limit of liability shall be \$1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Comprehensive General Liability Insurance policy or its equivalent shall name the Authority, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic, unamended, and unendorsed Comprehensive General Liability Insurance occurrence coverage forms or its equivalent currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage.
- b. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than \$1 million per occurrence as a combined single limit. The Authority must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the Authority's behalf or on Authority controlled property.
- c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

\$1,000,000 BODILY INJURY, EACH OCCURRENCE
\$1,000,000 DISEASE EACH EMPLOYEE
\$1,000,000 DISEASE AGGREGATE LIMIT

- d. This \$1 million amount may have been raised by the RFP when deemed necessary by the Authority.

5. TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR – The contractor's status shall be that of any independent contractor and not as an employee of the State.

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

5.3 CONTRACT TERM AND EXTENSION OPTION - If, in the opinion of the Authority, it is in the best interest of the Authority to extend a contract, the contractor shall be so notified of the Authority's Intent at least thirty (30) days prior to the expiration date of the existing contract. The contractor shall have fifteen (15) calendar days to respond to the Authority's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions including pricing of the original contract shall apply unless more favorable terms for the Authority have been negotiated.

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

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

5.5 CHANGE IN LAW – Whenever a change in applicable law or regulation affects the scope of work, the Authority shall provide written notice to the contractor of the change and the Authority's determination as to the corresponding adjusted change in the scope of work and corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

- a. If the contractor does not agree with the adjusted contract price, the contractor shall submit to the Authority any additional information that the contractor believes impacts the adjusted contract price with a request that the Authority reconsider the adjusted contract

price. The Authority shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price.

- b. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Authority an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Authority may request. The Authority shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

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

5.7 TERMINATION OF CONTRACT

- a. For Convenience:
Notwithstanding any provision or language in this contract to the contrary, HESAA may terminate this contract at any time, in whole or in part, for the convenience of the Authority, upon no less than thirty (30) days written notice to the contractor.
- b. For Cause:
 1. Where a contractor fails to perform or comply with a contract or a portion thereof, the Authority may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.
 2. Where in the reasonable opinion of the Authority, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, HESAA may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.
- c. In cases of emergency HESAA may shorten the time periods of notification and may dispense with an opportunity to respond.
- d. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING OR ASSIGNMENT

- a. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of HESAA. Such consent, if granted in part, shall not relieve the contractor of any of its responsibilities under the contract, nor shall it create privity of contract between the Authority and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for

- the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws.
- b. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Authority.

5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND THE AUTHORITY -

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

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

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

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR - The contractor hereby certifies that:

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

5.12 DELIVERY REQUIREMENTS -

- a. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract.
- b. The contractor shall be responsible for the delivery of material in first class condition to the Authority in accordance with good commercial practice.
- c. Items delivered must be strictly in accordance with the contract.
- d. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, HESAA shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

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

5.14 CONTRACT AMENDMENT – Except as provided herein, the contract may only be amended by written agreement of the Authority and the contractor.

5.15 MAINTENANCE OF RECORDS - The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless otherwise specified in the RFP. Such records shall be made available to the Authority and State Comptroller, for audit and review.

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

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

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

6. TERMS RELATING TO PRICE AND PAYMENT

- 6.1 PRICE FLUCTUATION DURING CONTRACT** - Unless otherwise agreed to in writing by the Authority, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract.

In the event of a manufacturer's or contractor's price decrease during the contract period, the Authority shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Authority must be notified, in writing, of any price reduction within five (5) days of the effective date.

Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

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

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

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

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