EXECUTIVE ORDER NO. 166

WHEREAS, in light of the dangers posed by Coronavirus Disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, which have been strengthened and expanded upon in subsequent Executive Orders, including Executive Order Nos. 105-133, Nos. 135-138, and Nos. 140-165 (2020), the facts and circumstances of which are adopted by reference herein; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq., and consistent with Section 1135 of the Social Security Act, as amended, 42 U.S.C. § 1320b-5; and

WHEREAS, also on March 13, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant a nationwide emergency declaration under Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, on March 25, 2020, the President determined that the COVID-19 pandemic in New Jersey was of sufficient severity and magnitude to warrant a major disaster declaration under Section 401 of the Stafford Act, 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, the Federal Government has established various sources of federal funding for state and local governments, businesses, non-profit organizations, and members of the public to support pandemic response and economic recovery, with state and local governments serving as intermediaries for the distribution of some of those funds; and

WHEREAS, New Jersey state and local governments, as well as non-government sources, are likely to make additional funding available to support pandemic response and economic recovery; and

WHEREAS, efficient and effective audit and oversight functions combined with robust transparency procedures foster government accountability, while increasing public trust and confidence that every public dollar is spent toward impactful recovery and resilience projects and programs; and

WHEREAS, New Jersey residents expect that government agencies will maintain adequate controls over financial management, contracting, financial reporting, and the delivery of government programs and activities with due regard to efficiency, effectiveness, and economy; and

WHEREAS, the distribution of emergency and relief funds to local government units, businesses, non-profit organizations, and the general public is a priority of my Administration, and the waste, fraud, or abuse of those funds would frustrate that purpose; and

WHEREAS, the Legislature established an independent Office of the State Comptroller ("State Comptroller") to report directly to the Governor and to promote accountability and oversight for the expenditure of public funds; and

WHEREAS, the provisions of this Order regarding the State Comptroller have been developed in consultation with and with the concurrence of the State Comptroller; and

WHEREAS, in addition to the COVID-19 pandemic, various hazards over the last decade, such as hurricanes, winter storms, floods, and other natural disasters, have caused severe physical damages and

economic impacts in New Jersey that have resulted in significant distributions of federal funds to residents and private entities, as well as to local, county, and State government facilities and operations; and

WHEREAS, the Governor's Office of Recovery & Rebuilding was created during the prior Administration pursuant to Executive Order No. 125 (2013) to coordinate the State's multi-billion dollar rebuilding effort following Superstorm Sandy, which caused unprecedented damages to the State's people, economy, infrastructure, and resources, and that Office continues to oversee various State-led and federally funded recovery, rebuilding, and resilience projects; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Establishment of the Governor's Disaster Recovery Office. There shall be established a Governor's Disaster Recovery Office ("GDRO") within the Governor's Office, reporting to the Governor's Chief of Staff. The GDRO shall be led by an Executive Director, who shall work full-time on the State's COVID-19 recovery, as well as any past or future disaster recovery or resilience efforts, and shall have experience in disaster recovery, public transparency, risk management, fraud prevention, and federal compliance. The GDRO shall be responsible for the following activities:

a. Coordinating the work of "COVID-19 Accountability Officers", as described in Paragraph 2(a) of this Order, to ensure cross-agency collaboration, compliance, and transparency;

b. Developing a transparency website within ninety (90) days of the date of this Order to track the State's eligible and planned uses of any funds disbursed by the federal or State government to help New Jersey residents, businesses, non-profit organizations, government agencies, and other entities respond to or recover from the COVID-19 pandemic ("COVID-19 Recovery Programs"), including any funds awarded to the State pursuant to the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 ("COVID-19 Recovery Funds");

c. Coordinating and consulting with all relevant stakeholders regarding the disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs, including:

   i. State Executive Branch agencies;

   ii. The Office of Diversity and Inclusion, within the Department of Treasury;

   iii. Federal government agencies, including the Federal Emergency Management Agency, the U.S. Department of Health & Human Services, the U.S. Small Business Administration, the U.S. Department of Labor, the U.S. Department of the Treasury, the U.S. Department of Housing & Urban Development, the U.S. Army Corps of Engineers, and the U.S. Department of Education;

   iv. Local and county government units; and

   v. Non-governmental stakeholders, including the Governor's Restart and Recovery Commission as

described in Executive Order No. 131 (2020), residents, the business community, and non-profit organizations engaged in COVID-19 disaster recovery activities;

d. Publishing an annual report summarizing the State's use of federal funds in response to COVID-19; and

e. Assuming the responsibilities of the Governor's Office of Recovery & Rebuilding, which will no longer exist.

2. COVID-19 Recovery Program Participants. Each principal department and agency of this State, as well as each independent State authority, that receives COVID-19 Recovery Funds or administers a COVID-19 Recovery Program ("COVID-19 Recovery Program Participant") is hereby directed to:

a. Appoint or designate a senior-level official as the Recovery Program Participant's "COVID-19 Accountability Officer", who shall serve as the COVID-19 Recovery Program Participant's primary liaison to the GDRO and the Office of the State Comptroller, and who shall oversee the responsible disbursement of COVID-19 Recovery Funds by or through that COVID-19 Recovery Program Participant, and the administration of any COVID-19 Recovery Programs operated by the COVID-19 Recovery Program Participant;

b. Ensuring that all new potential procurements involving an expenditure of $150,000 or more involving COVID-19 Recovery Funds and/or a COVID-19 Recovery Program are submitted to the State Comptroller for review as part of the procurement process, as described in Paragraph 3(a) of this Order; and

c. Provide, at request of the State Comptroller, all documentation demonstrating that an expenditure of less than $150,000 involving COVID-19 Recovery Funds and/or a COVID-19 Recovery Program complied with all relevant federal and State laws.

3. State Comptroller. The Office of the State Comptroller shall exercise its statutory responsibilities pursuant to N.J.S.A. 52:15C-1, et seq., and shall:

a. Review potential procurements submitted by COVID-19 Recovery Program Participants pursuant to Paragraph 2(b) of this Order and determine, within 10 business days, whether the proposed procurement process complies with applicable public contracting laws, rules, and regulations. If the State Comptroller determines that the proposed procurement process does not comply with applicable laws, rules, and regulations, the State Comptroller shall inform the COVID-19 Recovery Program Participant, as well as the GDRO, of the changes needed to make the process legally compliant;

b. Amend, as necessary, the monetary threshold for the review process described in Paragraphs 2(b) and 3(a) of this Order, either for all COVID-19 Recovery Programs and COVID-19 Recovery Program Participants or for individual programs and participants, in order to balance the need for efficient and timely procurements with the need to mitigate risks arising from such procurements;

c. Provide training and assistance to each Recovery Program Participant regarding best practices for mitigating risks of waste, fraud, and abuse;

d. Serve as the chair of the COVID-19 Compliance and Oversight Taskforce, as described in Paragraph 4 of this Order;

e. Oversee the work of any COVID-19 Integrity Oversight Monitors appointed pursuant to Paragraph 5 of this Order, and receive regular updates from such monitors regarding their work; and

f. Ensure that all approved contracts for the allocation and expenditure of resources involving a Recovery Program allocated by or through any Recovery Program Participant are publicly posted online to the dedicated GDRO transparency website described in Paragraph 1(b) of this Order.

4. COVID-19 Compliance and Oversight Taskforce. There shall be established a "COVID-19 Compliance and Oversight Taskforce" (the "Taskforce"), which shall advise the Recovery Program Participants on complying with federal and State law and mitigating risks of waste, fraud, and abuse. The Taskforce shall:

a. Consist of the following members or their designees:

i. The State Comptroller, who shall serve as chair;

ii. The Attorney General;

iii. The State Treasurer;

iv. The GDRO Executive Director; and

v. Three Recovery Program Participants' COVID-19 Accountability Officers, as determined by the Taskforce Chair;

b. Issue, within thirty (30) days of this Order, guidelines regarding the appointment and responsibilities of "COVID-19 Oversight Integrity Monitors," as described in Paragraph 5 of this Order;

c. Issue, within forty-five (45) days of the date of this Order, a comprehensive plan describing the State's system to guard against fraud, waste, and

abuse in the disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs (the "Taskforce Compliance Plan"); and

d. Issue updates to the Taskforce Compliance Plan that assess any new risks not addressed in prior versions of the compliance plan and that propose appropriate mitigation measures.

5. COVID-19 Integrity Oversight Monitoring Program. In accordance with the guidance issued by the Taskforce pursuant to Paragraph 4(b) of this Order, a Recovery Program Participant may retain and appoint a COVID-19 Integrity Oversight Monitor ("Monitor") to oversee the disbursement of COVID-19 Recovery Funds and/or the administration of a COVID-19 Recovery Program. Each Monitor shall operate according to the guidelines established by the Taskforce pursuant to Paragraph 4(b) of this Order and shall:

a. Develop measures to prevent, detect, and remediate inefficiency and malfeasance in the expenditure of COVID-19 Recovery Funds;

b. Respond promptly to any inquiries posed by the GDRO or the State Comptroller; and

c. Submit a quarterly report detailing the specific services rendered during that quarter and any findings of fraud, waste, or abuse to the State Treasurer, who shall share the reports with the GDRO, the Senate President, the Speaker of the General Assembly, the Attorney General, and the State Comptroller. The integrity oversight monitor quarterly reports will be posted on the GDRO transparency website described in Paragraph 1(b) of this Order.

6. The State Comptroller and the GDRO shall report to the Governor from time to time on the progress of the COVID-19 recovery and the compliance process, and, in doing so, shall indicate whether

additional staff and assistance is necessary to ensure accountability, transparency, and the timely expenditure of federal resources.

7. The GDRO and the Taskforce shall be authorized to call upon any department, office, division, or agency of this State to supply them with any information, personnel, or other assistance necessary to discharge their duties under this Order.

8. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the State Comptroller, the GDRO, and the Taskforce, and to furnish the State Comptroller, the GDRO, and the Taskforce with such information and assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

9. This Order shall take effect immediately.

GIVEN, under my hand and seal this 17th day of July, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor