

****LEAVE MARGIN AS IS ON ADVERTISEMENT TO ALLOW
FOR LETTERHEAD****

ADVERTISEMENT FOR PROPOSALS

(SELECT ROADWAY)

Contract No. **[Insert Contract Number]**
[Insert Contract Title]

Proposals are invited for Contract No. **[insert Contract number]**, which involves **[insert brief description of contract]** from Mile **[insert number]** to Mile **[insert number]** in **[insert location]**, New Jersey.

The principal items of work include:

[Insert Principal items of work as shown below:]

(Asphalt Concrete Bridge Surfacing 5,700
Tons)

[Insert Range for Unlimited Contracts below. Range to be determined by the Project Manager:]

The estimated cost of construction is between [insert lower limit] and [insert upper limit]

Bidders must be prequalified under Classification **[insert classification]**, Rating **[insert rating]**, up to \$**[insert dollar amount]** Maximum prior to the receipt of bids. For proposals submitted by joint ventures, each member of the joint venture must be prequalified in the Contract Classification, and the sum of the ratings held by each member must be within 10 percent of the total price bid by the joint venture. In case where the sum of the ratings exceeds \$10 million, the Joint Venture's rating will be Unlimited.

Documents for bidder's NJTA prequalification or renewal of prequalification must be in the hands of the New Jersey Turnpike Authority, Engineering Department no later than **[insert date]**. New Jersey Turnpike Authority Prequalification documents are available on the Authority's Web Site (<http://www.state.nj.us/turnpike/construction.html>) under the location entitled "Information and Forms for Construction Contracts". Prequalification documents may be obtained at the Contracts and Specifications Office or will be mailed to prospective bidders upon request.

Bidders shall submit a valid copy of their Certificate of Registration for the "Public Works Contractor Registration Act" to the Authority's Engineering Department with their Proposal.

Bidders shall submit a valid copy of their Business Registration Certificate for the "Business Registration Act Amendment" to the Authority's Engineering Department with their Proposal.

In accordance with Executive Order No. 84 signed by Governor Jim Florio on March 5, 1993 and Executive Order No. 71 signed by Governor James E. McGreevey on October 2, 2003, it is the policy of the New Jersey Turnpike Authority (the "Authority" or "NJTA") that Small Business Enterprises ("SBE"), as determined and defined by the State of New Jersey, Department of the Treasury, Division of Minority & Women Business Development ("Division") in N.J.A.C. 17:13-1.1 ~~12A:10-1~~ et seq and N.J.A.C. 17:14-1.1 ~~12A:10A-1~~ et seq, respectively, have the opportunity to compete for and participate in the performance of contracts for the purchase of goods and services and for construction services required by the Authority. The Authority further requires that its contractors shall agree to take all necessary and responsible steps, in accordance with the aforementioned regulations, to ensure that SBEs have these opportunities.

The Contractor agrees to make a good faith effort to award at least 25% of this contract to subcontractors registered by the Division as a SBE. Subcontracting goals are not applicable if the prime contractor is a registered Small Business Enterprise (SBE) firm.

All bidders must comply with the following law relating to affirmative action rules prohibiting discrimination in employment and requiring affirmative action in performance of contracts awarded to the successful bidder.

"Bidders are required to comply with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27."

Proposals will be received at the New Jersey Turnpike Authority's Administration Building, 581 Main Street, Woodbridge, NJ 07095, (732) 750-5300 until **[insert time]*** o'clock Prevailing Time on the morning of **[insert date]*** at which time and place said proposals will be publicly opened and read. The Scheduled Items of Work for this Contract may be submitted electronically through the Electronic Bidding portal on the Authority's website (<http://www.state.nj.us/turnpike/construction.html>) under the location entitled "E-Bidding". Bid results may be obtained through the same portal by the afternoon of the day of the bid for morning bid openings, or by the following morning for afternoon bid openings.

The bidders are advised that the Proposal Bond form or the Letter of Surety form provided in the contract documents must be executed by the bidder when this type of proposal guaranty is selected by the bidder. Bidders are also advised that the Public Law 2005, Chapter 51 (Executive Order 134) and Executive Order 117 Certification and Disclosure forms must be executed by the intended awardee only.

Contract documents may be examined or purchased online starting **[insert date]*, through the electronic bidding link found on the Authority's Web Site (<http://www.state.nj.us/turnpike/construction.html>) under the location entitled "E-Bidding".** Contract documents may be ordered via phone, by calling 1-866-PLAN ROOM. The 2004 Standard Specifications, which form an integral part of the Contract, are available from the Authority at an additional cost of Thirty Five Dollars (\$35.00) per copy.

(Insert Name) Chief Engineer or Director of
Maintenance

[insert contract number]
[date to be inserted by specifications section]

*** INSERTED BY THE SPECIFICATIONS SECTION**

SECTION 106 - LEGAL RELATIONS AND RESPONSIBILITY

106.24 SMALL BUSINESS ENTERPRISE PROGRAM

[Include for all contracts:]

Delete the first paragraph and replace it with the following:

In accordance with Executive Order No. 84 signed by Governor Jim Florio on March 5, 1993 and Executive Order No. 71 signed by Governor James E. McGreevey on October 2, 2003, it is the policy of the New Jersey Turnpike Authority (the "Authority" or "NJTA") that Small Business Enterprises ("SBE"), as determined and defined by the State of New Jersey, Department of Treasury, Division of Minority and Women Business Development ("Division") and the Department of the Treasury ("Treasury") in N.J.A.C. 17:13-1.1 et seq and N.J.A.C. 17:14-1.1 et seq., respectively, have the opportunity to compete for and participate in the performance of contracts for the purchase of goods and services and for construction services required by the Authority. The Authority further requires that its contractors shall agree to take all necessary and responsible steps, in accordance with the aforementioned regulations, to ensure that SBEs have these opportunities.

In the first paragraph, first sentence change New Jersey Commerce and Economic Growth Commission to State of New Jersey, Department of Treasury, Division of Minority and Women Business Development ("Division")

In the second and third paragraphs, change "Commerce Commission" to "Division".

In the second paragraph, third sentence change Commerce Commission to Division

The third paragraph change Commerce Commission to Division

APPENDIX X
NEW JERSEY TURNPIKE AUTHORITY
REQUIREMENTS FOR SMALL BUSINESS ENTERPRISE
SUBCONTRACTORS' AND SET-ASIDE PROGRAM
FOR CONSTRUCTION CONTRACTS

The following pages will provide Bidders with information about the New Jersey Turnpike Authority (the "Authority") Small Business Enterprise ("SBE") Program requirements for non-federally funded construction contracts and subcontracts. Clarification of the SBE specifications along with assistance in completing the required forms can be obtained by calling Teresa M. Hale at the Authority's Office of Equal Employment Opportunity (hereinafter "Office of EEO") at (732) 750-5300 (ext. 8732). Prospective Bidders will also have an opportunity to ask questions regarding the directives contained in the SBE specifications at the pre-bid conference(s).

CONTRACT CLAUSE

It is the policy of the Authority that SBEs, as determined and defined by the State of New Jersey, Department of Treasury, Division of Minority and Women Business Development ("Division") in N.J.A.C. 17:14-1.1 12A:10A-1 et seq., have the opportunity to compete for and participate in the performance of contracts and subcontracts for construction services. The Authority further requires that its contractors shall agree to take all necessary and responsible steps, in accordance with the aforementioned regulations, to ensure that SBEs have these opportunities.

This language is included to ensure that all persons who enter into any form of contractual agreement with the Authority are aware of their responsibilities and the commitment of the Authority to see that its SBE Policy is carried out in all instances.

EXPLANATORY NOTE

The following information is provided by the New Jersey Turnpike Authority (the "Authority") to prospective bidders in an effort to promote and encourage participation in its "Small Business Enterprise Program" ("Program") for small businesses registered with the State of New Jersey, Department of Treasury, Division of Minority and Women Business Development (Division) as a Small Business Enterprises ("SBE"). The information provided below is not a complete reproduction of the regulations governing SBE registration and participation. Accordingly, to the extent that any of the information contained below conflicts with the applicable regulations, the regulations shall govern. Interested parties are encouraged to obtain a complete copy of the applicable regulations 17:13-1.1 12A:10-1 et seq. and N.J.A.C. 17:14-1.1 12A:10A-1 et seq. prior to registering with the Commerce Commission and submitting bids to the Authority.

I. Standards Of Eligibility For Small Business Enterprises

See N.J.A.C. 17:13-2.1 12A:10-2.1 and 17:14-2.1 12A:10A-2.1

- A. In order to be eligible as a small business, a business must satisfy all of the following criteria:

1. The business must be independently owned and operated, as evidenced by its management being responsible for both its daily and long term operation, and its management owning at least 51 percent interest in the business.
2. The business must be incorporated or registered to do business in the State and have its principal place of business in New Jersey, defined as such when either 51 percent or more of its employees work in New Jersey, as evidenced by the payment of New Jersey unemployment taxes or 51 percent or more of its business activities take place in New Jersey, as evidenced by its payment of income or business taxes.
3. The business must be a sole proprietorship, partnership, corporation or limited liability company with 100 or fewer employees in full-time positions, not including:
 - a. Seasonal and part-time employees employed for less than 90 days, if seasonal and casual part-time employment are common to that industry; and
 - b. Consultants employed under the other contracts not related to the construction and construction-related services that are under the subject of the specific contract for which the business wants to be eligible as a small business.
4. For goods and services contracts, the business must have gross revenues that do not exceed \$12 million.
5. For construction contracts, the business must have gross revenues that do not exceed \$1 million or the applicable annual revenue standards set forth in 13 CFR 121.201, whichever is higher.
6. Gross revenues of a business which has been in business for 3 or more complete tax years means the revenues of the business over its last 3 completed tax years divided by three.
7. Gross revenues of a business which has been in business for less than 3 complete tax years means the revenue for the period the business has been in business divided by the number of weeks in business, multiplied by 52.
8. Gross revenues of a business which has been in business 3 or more complete tax years but has a short year as one of those years means the revenues for the short year and the two full years divided by the number of weeks in the short year and the two full years, multiplied by 52.
9. Eligibility is formalized by the Division's registration and approval process.
10. For goods and services contracts, small businesses will be registered in one of the following three categories:
 - a. SBE 1 – Small businesses whose gross revenues do not exceed \$500,000; or
 - b. SBE 2 – Small businesses whose gross revenues do not exceed \$5,000,000; or
 - c. SBE 3 -- Small businesses whose gross revenues do not exceed \$12,000,000 or the applicable federal revenue standards at 13 CFR 121.201, whichever higher. Depending on the code, this can reach \$33,000,000.

Small businesses registered in the category SBE 1 will be eligible to participate in the set-aside contracts and subcontracting programs

available to businesses registered in the categories in SBE 1, 2 and 3. Small businesses registered in category SBE 2 will be eligible to participate in the set-aside contracts and subcontracting programs available to businesses registered in the category SBE 2 and 3. Small businesses registered in the category SBE 3 will be eligible to participate in the set-aside contracts and subcontracting programs available to businesses registered in the category SBE 3 only.

11. For construction contracts, small businesses will be registered in one of the following two categories:
 - a. SBE 4 – Small businesses whose gross revenues do not exceed \$1 million; or
 - b. SBE 5 – Small businesses whose gross revenues do not exceed 50% of the applicable annual revenue standards set forth in federal regulation at 13 CFR 121.201 and as may be adjusted periodically (\$3M + to \$16.75M).
 - c. SBE 6 Small Businesses with gross revenues that do not exceed the applicable annual revenue standards set forth in federal regulation at 13 CFR 121.201 as may be adjusted periodically (16.75+M to \$33.5M).

Small businesses registered in the category SBE 4 will be eligible to participate in the set-aside contracts and subcontracting programs available to businesses registered in the categories in SBE 4 and 5. Small businesses registered in category SBE 5 will be eligible to participate in the set-aside contracts and subcontracting programs available to businesses registered in the category SBE 5 only.

II. Obligation To Provide Information And Penalties For Failure To Provide Complete And Accurate Information

See N.J.A.C. 17:13-2.2 12A:10-2.2 and 17:14-2.2 12A:10A-2.2

- A. Applicants shall accurately and honestly supply all information required by the Division.
- B. When a business has been approved as an eligible small business on the basis of false information knowingly supplied by the business and the business has been awarded an Authority good and services or construction contract or subcontract, the Director, Division of Minority and Women Business Development, after notice and opportunity for a contested case hearing pursuant to N.J.S.A. 52:14B-10 and N.J.A.C. 1:1, may:
 1. Assess the business any difference between the contract amount and what the Authority's cost would have been if the contract had not been awarded pursuant to the Program;
 2. Assess the business a penalty in the amount of not more than 10 percent (10%) of the amount of the contract or subcontract involved; and
 3. Order the business ineligible to transact any business with a State contracting agency for a period of not less than three months and not more than 24 months.
- C. Any business approved by the Division as a small business shall immediately apprise the Division of any circumstances which might affect the eligibility of the business under these rules.
- D. The failure of a business to report any such changed circumstances, or the intentional reporting of false information, shall disqualify the business for

inclusion on any vendors list and may subject the business to adverse action by contracting agencies and/or the Attorney General.

III. Registration Procedures For Small Business Enterprise

See N.J.A.C. 17:13-3.1 12A:10-3.1 and 17:14-3.1 12A:10A-3.1

- A. Registration procedures established by the Division are as follows:
1. Any business which seeks to register as a small business enterprise must apply to the Division and pay any applicable fees. A Vendor Registration Form must be completed and forwarded to the Division for review and approval. This form shall be available from the and the Division. SBEs may be registered in a category for goods and services and/or construction contracts.
 2. As part of its application to the Division, a business shall reasonably document its principal place of business, independent status, number of employees, and its gross revenues. Where available, this document should include appropriate forms or reports otherwise submitted to or issued by State and Federal agencies, such as employee reports filed with the New Jersey Department of Labor or certificates of incorporation issued by the New Jersey Department of Treasury.
 3. If an applicant fails to complete fully the Vendor Registration Form, registration may be delayed or denied.
 4. When an application for registration as a small business enterprise is approved by the Division, the Division will issue the newly registered business an approval notice and add it to the Division's small vendor list.
 5. If an applicant knowingly supplies incomplete or inaccurate information, the applicant shall be disqualified and may be subject to other penalties described in N.J.A.C. 17:13-2.2 12A:10-2.2 and 17:14-2.2 12A:10A-2.2.

IV. Time For Application To Register As A Small Business Enterprise

See N.J.A.C. 17:13-3.2 12A:10-3.2 and 17:14-3.2 12A:10A-3.2

- A. A business may apply to the Division at any time to be registered as a small business enterprise and to be placed on the appropriate vendor list(s).
- B. If a business is to be eligible to bid on a specific set-aside contract or participate in the subcontracting target programs for purposes of these requirements, it must be registered as a small business by the Division on the date the bid or bid proposal is received and opened by the Authority.

V. Responsive Bid Criteria

- A. The Authority requires that SBE Forms A, B, C and D, as applicable, be submitted within seven (7) days after Notice of Award. However, the Authority may extend the deadline for this requirement at its sole discretion.
- B. **FAILURE TO TIMELY AND SATISFACTORILY COMPLETE THE SBE FORMS OR, IF THE GOAL IS NOT MET, TO SHOW GOOD FAITH EFFORTS TO MEET THE GOAL, SHALL RESULT IN A DETERMINATION BY THE AUTHORITY THAT THE BIDDER IS NON-RESPONSIVE AND SHALL CAUSE REJECTION OF THE BID.**
- C. If the low Bidder submits the SBE forms within the requested time frame, but fails to meet the SBE goal, the Office of EEO, in conjunction with the Department

of Engineering will evaluate the efforts made by the Bidder to determine whether a demonstration of Good Faith Efforts has been made.

- D. Criteria used to evaluate the efforts made to obtain SBE participation are outlined in Article VI, Good Faith Efforts of Bidders Requirements.

VI. Good Faith Efforts Of Bidders Requirements

See N.J.A.C. 17:13-4.3 ~~12A:10-4.3~~ and ~~17:14-4.3~~ 12A:10A-4.3

- A. The following actions shall be taken by a bidder in establishing a good faith effort to solicit and award subcontracts to eligible small businesses:
1. The bidder shall attempt to locate qualified potential small business subcontractors:
 2. The bidder shall request a listing of small businesses from the Division and the Authority if none are known to the bidder:
 3. The bidder shall keep a record of its efforts, including the names of businesses contacted and the means and results of contact:
 4. The bidder shall attempt to contact all potential subcontractors on or about the same day and use similar methods to contact them:
 5. The bidder shall provide all potential subcontractors with detailed information regarding the specifications; and
 6. The bidder shall attempt, wherever possible, to negotiate prices with potential subcontractors which submitted higher than acceptable price quotes.
 7. Bidders shall maintain adequate records to document their efforts.

VII. Counting SBE Participation

- A. Once a firm is determined to be an eligible SBE by the Division, the total dollar value of the contract awarded to the SBE shall be counted toward the applicable goal as follows:
1. The Authority will count towards its SBE goal only awards to SBEs that perform a commercially useful function in the work of a contract. This means that a SBE must be responsible for a distinct element of the work by actually performing, managing, and supervising the work involved. A SBE may, of course, enter into subcontracts. The subcontract values may be counted toward the SBE goal. However, if a SBE subcontracts a significantly greater portion of the work than is usual according to industry practices, it is presumed the SBE is not performing a commercially useful function and, therefore, the value of the SBE subcontract and its subcontracts will not be counted. The SBE may present evidence to the Authority to rebut this presumption.
 2. No work shall be included in the SBE Participation Schedule if the Bidder has reasonable cause to believe the listed SBE firm will subcontract, at any tier, more than 49% to a non-SBE firm.
 3. For construction contracts awarded under this program, 100% of the total contract amount will count toward the SBE Goal.
 4. For contracts with SBE suppliers of goods and services, 100% of total contract amount will count toward the SBE goal.
 5. Awards to SBE suppliers that are not manufacturers or regular dealers will be counted toward the goal on the following basis:
 - a. Fees or commission charged will be counted toward the goal for providing a bona fide service, such as professional, technical,

- consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract.
- b. If a SBE delivers equipment, materials and supplies required on a job site, the delivery fee charged may be counted toward the goal. Where such fees are a part of the SBE subcontract amount on a construction job, they have already been applied to the goal and cannot be further counted.
 - c. Fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract may be counted toward the goal, providing the aforementioned fees or commissions are determined by the Authority to be reasonable and not excessive as compared with fees customarily allowed for similar services.
6. Awards in subcontracts with businesses that are joint ventures will be counted on the basis of percentage ownership of the eligible SBE in the joint venture.

VIII. Bid Requirements

Pre-Bid Instructions:

1. The listing of a SBE firm by a Bidder on its SBE Participation Schedule (Form A) shall constitute a representation by the Bidder to the Authority that such SBE firm is qualified and not unavailable, and a commitment by the Bidder that, if it is awarded the contract, it will enter into a subcontract with such SBE firm for the portion of the work described in the SBE Participation Schedule and at the price set forth in its Bid. NO SUBSTITUTIONS OF SBE FIRMS DESIGNATED IN THE BIDDER'S SBE PARTICIPATION SCHEDULE MAY BE EFFECTED WITHOUT THE AUTHORITY'S PRIOR WRITTEN APPROVAL. A SBE Bidder which lists itself on the SBE Participation Schedule is committed to performing the work indicated with its own personnel.
2. Agreements between a Bidder and SBE in which SBE promises not to provide subcontracting quotations to other Bidders are prohibited.
3. Price alone shall not be an acceptable basis for rejecting a SBE subcontractor's bid, unless the contractor evidences to the Authority's satisfaction that no reasonable price could be obtained from the SBE.
4. A Directory of Small Business Enterprises is available in the Authority's Office of EEO upon request. Use of this listing does not relieve the Bidder of its responsibility to seek SBE participation from other sources.

Post Award Obligations:

1. After the execution of a contract with the Authority, signed copies of subcontracts between the prime contractor and SBE subcontractors must be submitted to the Authority's Office of EEO no later than 14 business days after the subcontract execution. The Prime Contract recipient shall inform the Authority of the anticipated job start date for all SBE subcontractors prior to the start of same.
2. The agreement between the prime contractor and subcontractor shall remain firm for the duration of the contract. Should changes that affect the SBEs performance and/or compensation be required, the Authority's Office of EEO, in conjunction with the Department of Engineering, must

be notified for its review and approval of the changes prior to their implementation.

3. Whenever the Authority issues project change orders, the Engineering Department, after consultation with the Office of EEO, will determine if increased SBE participation will be required.
4. If at any time the contractor believes or has reason to believe that a proposed SBE has become unavailable or, due to change in ownership or management responsibility, does not meet the standards set forth in Article 2, the contractor shall, within 10 days, notify the Authority of that fact in writing. Within 15 days thereafter, the contractor shall, if necessary to achieve the stated goal, make every reasonable effort to subcontract the same or other work to other SBE firms. The contractor's efforts to replace an unavailable SBE firm shall be coordinated with the Authority's Office of EEO.
5. Should a SBE become ineligible during the course of this contract, effective as of the date of ineligibility, further contractual dollars expended with the SBE shall not be counted toward the SBE goal. Within 15 days after notification by the Authority to the contractor of the ineligible SBE, the contractor will make every reasonable effort to satisfy the SBE goal. The contractor's effort to continue to meet the SBE goal shall be coordinated with the Authority's Office of EEO.
6. Within 15 days of a contract award, a SBE Liaison Officer must be designated by the Prime Contractor. The liaison officer will be responsible for cooperating with the Authority regarding SBE subcontractor matters and will work with the office of EEO as necessary.
7. To ensure that all obligations under subcontracts awarded to SBEs are met, the Authority shall review the Prime Contractor's SBE involvement efforts during the performance of the contract. The Contractor shall monitor the performance of and collect and report data on SBE participation to the Compliance Officer of the Office of EEO. The Contractor shall report the SBE status on the attached Form E (Contractor's Monthly SBE Report) and submit it monthly to the Office of EEO. The Contractor must submit invoices or estimates to the Authority. SBEs must submit the appropriate forms on a monthly basis to the Office of EEO. The form will be reviewed to determine contract compliance with respect to the SBE goal. Failure to submit this report may result in suspension of payments as provided in Section D, "Audit and Penalties" below. If, at any time, the Authority has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, it shall refer the matter to the Attorney General of the State of New Jersey.
8. The Contractor agrees to pay each subcontractor and supplier under this contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the Contractor receives from the Authority.
9. In accordance with N.J.S.A. 52:32-40 and 52:32-41, the Contractor shall certify, prior to the issuance of a progress payment by the Authority, that all subcontractors and suppliers have been paid any amounts due from previous progress payments and shall be paid any amounts from the current progress payment. Alternatively, the Contractor shall certify that there exists a valid basis under the terms of the subcontractors or supplier's contract to withhold payment from the subcontractor or supplier and therefore payment is withheld.

10. If the Contractor withholds payment from the subcontractor or supplier, the Contractor shall provide to the subcontractor or supplier written notice thereof. The notice shall detail the reason for withholding payment and state the amount of payment withheld. If a Performance/Payment Bond has been provided under this contract, the Contractor shall send a copy of the notice to the Surety providing the bond for the Contractor. A copy of the notice shall also be submitted to the Authority with the certification that payments are being withheld.

Substitution of SBE's

Except as provided herein, the successful Bidder shall not have the work performed, or the materials or supplies furnished, by any other SBE firm other than those named in the "Schedule of SBE Participation". However, if the Authority finds that the Bidder upon submission of its bid, committed itself to the goal in good faith, the Bidder may, in unusual situations, be permitted to substitute a subcontractor(s). A request for substitution must be in writing, with complete justification for the request. Whether the Contractor (or Bidder) seeks to make a substitution prior to award or during performance, the Contractor must have approval of the Authority before substitution of the SBE subcontractor, regardless of the reason for the substitution. Failure to obtain approval from the Authority could result in the Prime Contractor being found to be in "noncompliance" with the requirements of the contract. The term "unusual situations" includes, but is not limited to, a SBE subcontractor's or SBE joint venture partner's:

1. Failure to qualify as a SBE, or maintain SBE registration status.
2. Death or physical disability, if the named subcontractor or SBE partner of the joint venture is an individual.
3. Dissolution, if a corporation or partnership.
4. Bankruptcy of the subcontractor, subject to applicable bankruptcy laws, and only in instances where the bankruptcy affects the subcontractor's ability to perform.
5. Inability to obtain, or loss of, a license necessary for the performance of the particular category of work.
6. Failure or inability to comply with a requirement of law applicable to the subcontract work.
7. Material failure to comply with the terms and conditions of the subcontract.
8. Material failure to successfully perform the subcontract tasks.

D. Audit and Penalties

The Prime Contractor is advised that failure to carry out the requirements of these specifications shall constitute a breach of contract and may result in termination of the contract by the Authority, or such remedy as the Authority deems appropriate. During the performance of the contract, and for a period of up to three (3) years following completion of the contract work, the Authority may conduct reviews for compliance with the requirements of the SBE Program. Such reviews may include the evaluation of monthly reports, desk audits and site visitations. Where a Prime Contractor, or any subcontractor, is found to be in noncompliance with the requirements of the SBE Program during the

performance of the contract, it will be required to take corrective action. If corrective action is not promptly taken by the offending contractor, the following sanctions may be instituted (singularly, in any combination and in addition to any other remedies provided by law):

1. The Authority may withhold further payments under the contract.
2. The contract may be terminated for breach.
3. Suspension or debarment proceedings may be commenced in accordance with New Jersey law and the Authority regulations.
4. The relevant performance bond(s), if any, may be enforced.

IX. The Authority Program: Bid/Proposal Submittals

A. The Authority SBE Form A: Schedule of SBE Participation:

- List all SBE firms scheduled to participate in the contract, including scope of work to be performed and the dollar value of their anticipated participation. Additionally, the name of the Contractor's SBE liaison officer should be included on this form.
- Upon execution of a contract with the Authority the prime contractor must enter into a formal agreement with the SBE(s) listed on Form A. There can be no substitution of the SBE(s) listed on Form A without the prior written approval of the Authority. If, for any reason Form A is not completed, then the bidder must complete and provide Form D (see below).

B. The Authority SBE Form B: Intent to Perform as a Subcontractor: (If Applicable:)

- For each SBE owned firm listed on Form A, Bidder shall include a complete and signed Form B. This form B is not required for set aside contract awards.

C. The Authority SBE Program Form C: Affidavit of SBE:

- Each SBE firm to be utilized must sign Form C attesting to its validity as a SBE.

D. The Authority SBE Program Form D: Documentation of Good Faith Effort SBE Firms Unavailability Certification (If Applicable):

- If a Bidder is unable to identify SBE(s) as required to meet the targeted goal set for this Contract, Bidder shall complete and attach this form which documents the Bidder's Good Faith Efforts to do so.

E. The Authority SBE Program Form E: Contractor's Monthly SBE Payment Report:

- This is the payment report that must be completed on a monthly basis by the successful Bidder.

F. The Authority SBE Program Form E2: Subcontractor's Monthly SBE Payment Report:

- This form verifies payment to the SBE subcontractors, Form E2 is to be given to each SBE subcontractor by the Prime Contractor. The SBE firm is required to submit this form to the Authority Office of EEO directly or through the Contractor on a monthly basis.

X. Definitions

See N.J.A.C. ~~17:13-1.2 12A:10-1.2~~ and ~~17:14-1.2 12A:10A-1.2~~, as the case may be.

- A. **"Construction Contract"** means any contract to which the Authority is a party involving any construction, renovation, reconstruction, rehabilitation, alteration, conversion, extension, demolition, repair or other changes or improvements of any kind whatsoever of any structure, facility or highway. The term also includes contracts for consultant services, the supervision, inspection and other functions incidental to actual construction.
- B. **"Consultant"** means an architect, engineer, construction manager, or other provider of technical and professional services in support of a design or construction or highway project.
- C. **"Contractor or Prime Contractor"** means any party performing or offering to perform a construction contract or consultant contract, or any party providing materials or goods used to perform a construction contract issued by the Authority.
- D. **"Goal"** means the statutorily determined percentage of contracts awarded by the Authority to eligible small businesses in order to comply with the small business provisions of the Set-Aside Act.
- E. **"Registration"** means the process by which any business can have its eligibility for participation in the Division's small business programs determined.
- F. **"Secretary"** means the Chief Executive Officer and Secretary of the Division or his or her designee.
- G. **"Set-Aside Contract"** means a contract specifically designated by the Authority as exclusively available for award to an eligible small business.
- H. **"Small Business"**, for purposes of registering as a **goods and services contractor** means a business which has its principal place of business in the State, is independently owned and operated, has no more than 100 full-time employees, and has gross revenues that do not exceed \$12 million.
- I. **"Small Business"**, for purposes of registering as a **construction contractor**, means a business which has its principal place of business in the State, is independently owned and operated, has no more than 100 full-time employees, and has gross revenues that do not exceed either \$1 million or the applicable annual revenue standards set forth in 13 CFR 121.201, whichever is higher.
- J. **"State Contracting Agency"** means any board, commission, committee, authority or agency of the State which possesses the legal authority to award and make construction contracts except where expressly inconsistent with statutory authority.
- K. **"Subcontractor"** means a third party that is engaged by a contractor to perform all or part of the work or to provide supplies, materials or equipment included in a construction-related contract with the Authority.
- L. **"Target"** means the numerical objective which the Authority establishes, on a contract by contract basis, in order to meet its small business goal. **Subcontracting goals are not applicable if the prime contractor is a registered Small Business Enterprise (SBE) firm.**

**NEW JERSEY TURNPIKE AUTHORITY
SMALL BUSINESS ENTERPRISES
FORM A***

PROPOSED SCHEDULE OF SMALL BUSINESS ENTERPRISE PARTICIPATION ("SBE PARTICIPATION SCHEDULE")

Contract Number:_____ Project Title:_____

SBE 1 GOAL%_____ SBE 2 GOAL%_____ SBE 3 GOAL%_____ SBE 4 GOAL%_____ SBE 5 GOAL%_____ SBE 6 GOAL%_____

NAME AND ADDRESS OF SBE 1, 2, 3, 4 and/or 5, 6 SUBCONTRACTOR	S B E 1	S B E 2	S B E 3	S B E 4	S B E 5	S B E 6		** M B E	** W B E	TYPE OF WORK TO BE PERFORMED	DOLLAR AMOUNT OF SUBCONTRACTOR WORK***	SUB- CONTRACT %

The undersigned will enter into a formal agreement with the SBE(s) listed in this schedule conditioned upon execution of a contract with the Authority for the above referenced project.

Authorized Signature:_____ Name of Company:_____

Print Name:_____ Title_____ Prime Contractor's Liaison Officer:_____

Company Phone #_____ Company Address:_____

This form MUST be completed and submitted within seven (7) days after Notice of Award.

SBE Prime Contractors need only to complete this form for their firm.

* In the event Form A cannot be completed, or if the percentage of the goal for the contract is not met, Form D must be completed.

** The provision of this information is voluntary and will not be considered in determining the successful bid or in calculating SBE participation.

*** Eliminate Price in Professional Service Contracts Only.

**NEW JERSEY TURNPIKE AUTHORITY
SMALL BUSINESS ENTERPRISE
FORM B
INTENT TO PERFORM AS A SUBCONTRACTOR**

TO: _____ CONTRACT NUMBER: _____
(Name of Prime Contractor)

PROJECT TITLE: _____

The undersigned intends to perform subcontract work in connection with the above-mentioned project as
(Check One):

☐ Individual ☐ Corporation ☐ Partnership ☐ Joint Venture ☐ L.L.C. ☐ Other

The SBE Category status of the undersigned is confirmed on the attached Affidavit of Small Business Enterprise
(NJTA SBE Form C).

The undersigned is prepared to perform the following described work in connection with the above-referenced
project:

and at the following price: _____

NOTE: Eliminate Price on Professional Service Contracts Only.

The Prime Contractor has projected the following commencement date for such work, and the undersigned
projects completion of such work as follows:

_____ Project Commencement Date _____ Projected Completion Date

With respect to the proposed subcontract described above, ____% of the dollar value of such subcontract will be
subcontracted and/or awarded to Non-SBE Contractors and/or Non-SBE Suppliers.

The undersigned will enter into a formal agreement for the above work with the Prime Contractor conditioned
upon execution of a contract with the Authority. As a SBE Sub-Contractor, I will cooperate with the certification
and monitoring process set forth by the Authority for the referenced project.

Signature of SBE Date

Name of SBE Firm

Type Name

Address

Type Title

Telephone Number

**NEW JERSEY TURNPIKE AUTHORITY
SMALL BUSINESS ENTERPRISE PROGRAM
FORM C
AFFIDAVIT OF SMALL BUSINESS ENTERPRISE**

Contract Number: _____

Project Title: _____

I HEREBY DECLARE AND AFFIRM that I am the (title) _____

and duly authorized representative of the firm of _____

located in the STATE OF _____ and COUNTY OF _____

Bidder acknowledges and affirms that he/she is registered and approved in good standing with the State of New Jersey, Department of the Treasury, Division of Minority & Women Business Development ("Division") as a Small Business Enterprise ("SBE") and has been placed on the Division's small vendor list. This status must be achieved on or before the date the bids are received and opened.

PLEASE ATTACH A COPY OF YOUR SBE REGISTRATION CERTIFICATE.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

Date

Affiant

Address

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 20____, before me, _____
_____, the person described in the foregoing Affidavit acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

In Witness thereof, I hereunto set my official seal

Notary Public

(Seal)

My Commission Expires _____

**NEW JERSEY TURNPIKE AUTHORITY
SMALL BUSINESS ENTERPRISE PROGRAM
FORM D
SBE UNAVAILABILITY CERTIFICATION**

Contract Number:

Project Title:

I, Name:

Title:

of

located in the STATE OF

Prime Contractor:

Certify that on _____, I contacted the following SBE(s) to obtain a Bid for work items to be performed on the Project named above.

**SBE: List By Firm Name, SBE Category No. & SBE Registration No. Of Each SBE Contacted
Together With The Type Of Work Requested To Be Performed
(attach additional pages as necessary)**

Firm Name	SBE Category No.	SBE Registration No.	Type Of Work

To the best of knowledge and belief, each SBE identified in this Form was unavailable for work on this project, exclusive of unavailability due to lack of agreement on price, and each SBE was unable to prepare a bid for the following reason(s) (if known):

Reason Unavailable:

Signature of Prime Contractor:

Date: _____

**This form MUST be completed and submitted within seven (7)
days after Notice of Award.**

On this _____ day of _____, 20____, before me _____

_____, the person described in the foregoing Affidavit acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

In Witness thereof, I hereunto set my official seal

Notary Public

(Seal)

My Commission Expires _____