

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 New Jersey Commerce and Economic Growth Commission ("Commerce Commission") and the Department of the Treasury ("Treasury") in N.J.A.C. 12A:10-1 et seq and N.J.A.C. 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 Commerce Commission 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 ([www.state.nj.us/turnpike/buss.htm](http://www.state.nj.us/turnpike/buss.htm)) under the location entitled "Business Center". Bid results may be obtained through the Electronic Bidding portal on the Authority's website ([www.state.nj.us/turnpike/buss.htm](http://www.state.nj.us/turnpike/buss.htm)) under the location entitled "Business Center," the afternoon of the bid.

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. Failure to use these New Jersey Turnpike Authority forms may result in rejection of the proposal. 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 ([www.state.nj.us/turnpike/buss.htm](http://www.state.nj.us/turnpike/buss.htm)) under the location entitled "Business Center".** 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.

NEW JERSEY TURNPIKE AUTHORITY

**(Insert Name)** Chief Engineer or Director of Maintenance

## 102.09

### SUBMITTING PROPOSALS

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Following the first paragraph replace the third bullet item document on the list with the following:

Filed copy of Public Records Filing for New Business Entity, evidencing filing with the New Jersey Department of Treasury, Division of Revenue (if prequalification not required).

~~The following is added to the documents that shall be submitted with the Proposal:~~

- ~~• A completed Public Law 2005, Chapter 51 (Executive Order 134) Contractor Certification and Disclosure of Political Contributions Forms evidencing compliance with Public Law 2005, Chapter 51 (Executive Order 134) in accordance with subsection 102.17 and Appendix B.~~

The following is added at the end of this section;

Bidders may either submit their Proposals as described above **or** may use Electronic Bidding for this Contract. Bidders utilizing Electronic Bidding shall submit their Proposal as described in this subsection with the exception of their Scheduled Items of Work. The Scheduled Items of Work shall be submitted electronically through the portal on the Authority's website.

Bidders submitting their Scheduled Items of Work electronically **should not** include their Scheduled Items of Work in the Proposal.

Scheduled Items of Work submitted electronically without an accompanying Proposal will not be opened.

## 102.11

### CAUSES FOR REJECTION

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Replace reason (i) with the following;

- (i) if more than one bid is submitted by the Bidder for the same contract or if the Scheduled Items of Work submitted electronically differs from the Scheduled Items of Work included in the Proposal

~~Replace reason (p) with the following;~~

- ~~(p) if a completed Public Law 2005, Chapter 51 (Executive Order 134) Chapter 271 and Executive Order 117 Contractor Certification and Disclosure of Political Contributions Forms are not submitted by the intended awardee or (q) for any other reason allowed by law.~~

[Include the following with federal-aid funded Contracts:]

Replace reason (q) with the following;

- (q) for failure to satisfy the pre-award requirements, if any, of the Disadvantaged Business Enterprise [Minority] Utilization attachments or other Federal-Aid

attachments included in these Supplementary Specifications or (r) for any other reason allowed by law.

**102.17 PUBLIC LAW 2005, CHAPTER 51 AND (EXECUTIVE ORDER 134) AND EXECUTIVE ORDER 117**

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*In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004 ("EO 134"). The Order is applicable to all State agencies, the principal departments of the executive branch, any division, board, bureau, office, commission within or created by a principal executive branch department, and any independent State authority, board, commission, instrumentality or agency. Executive Order 134 was superseded by Public Law 2005, c.51, signed into law on March 22, 2005. In September 2008, Executive Order 117 was signed and become effective November 15, 2008. It applies to the same government contracting entities subject to Executive Order 134, but extends the political contribution restrictions by expanding the definition of "business entity" to include, for example, more corporate shareholders and sole proprietors. Executive Orders 134 and 117, and Public Law 2005, c.51 contain restrictions and reporting requirements that will necessitate a thorough review of the provisions. Pursuant to the requirements of Public Law 2005, Chapter 51, ("EO 134") the terms and conditions set forth in this subsection and in Appendix B are material terms of any contract resulting from this bid solicitation.*

*Pursuant to the requirements of Public Law 2005, Chapter 51, ("EO 134") the terms and conditions set forth in this subsection and in Appendix B are material terms of any contract resulting from this bid solicitation.*

*The required certification forms shall be submitted by the intended awardee only who will be notified in writing and sent the required forms by the Authority.*

*The required certification forms must be submitted to the Authority within 48 hours of Notice by the Authority.*

***Please note that more than one Certification and Disclosure may be required from your firm***

*See Appendix B for Compliance Requirements.*

## **APPENDIX B - REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51 (EXECUTIVE ORDER 134) AND EXECUTIVE ORDER 117**

*In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004 ("EO 134"). The Order is applicable to all State agencies, the principal departments of the executive branch, any division, board, bureau, office, commission within or created by a principal executive branch department, and any independent State authority, board, commission, instrumentality or agency. Executive Order 134 was superseded by Public Law 2005, c.51, signed into law on March 22, 2005. In September 2008, Executive Order 117 was signed and become effective November 15, 2008. It applies to the same government contracting entities subject to Executive Order 134, but extends the political contribution restrictions by expanding the definition of "business entity" to include, for example, more corporate shareholders and sole proprietors. Executive Orders 134 and 117, and Public Law 2005, c.51 contain restrictions and reporting requirements that will necessitate a thorough review of the provisions. Pursuant to the requirements of PL 2005, c.51, the terms and conditions set forth in this Appendix are material terms of any contract resulting from this bid solicitation:*

### **DEFINITIONS**

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

*a) Contribution – means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act." P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.*

*b) Business Entity – means any natural or legal person; business corporation (and any officer, person, or business entity that owns or controls 10% or more of the corporation's stock); professional services corporation (and any of its officers or shareholders); limited liability company (and its members); general partnership (and its partners); limited partnership (and its partners); in the case of a sole proprietorship: the proprietor; a business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction, including its principals, officers, or partners. The definition of a business entity also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity ; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing in the same household.*

### **BREACH OF TERMS OF THE LEGISLATION**

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

### **CERTIFICATION AND DISCLOSURE REQUIREMENTS**

*a) The Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State, county or municipal political party committee, or legislative leadership committee during specified time periods.*

*b) Prior to the award of any contract or agreement, the intended Awardee shall submit the Certification and Disclosure form, certifying that no contributions prohibited by the Legislation have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the means of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. Failure to submit the required forms will preclude award of a contract under this bid solicitation, as well as future contract opportunities.*

*c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made.*

## **STATE TREASURER REVIEW**

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

## **ADDITIONAL DISCLOSURE REQUIREMENT OF P.L. 2005, C. 271**

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

## **ADDITIONAL DISCLOSURE REQUIREMENT OF P.L. 2005, C. 51 (EXECUTIVE ORDER NO. 117)**

*Governor Jon S. Corzine recently signed Executive Order No. 117, which is designed to enhance New Jersey's efforts to protect the integrity of government contractual decisions and increase the public's confidence in government. The Executive Order builds on the provisions of P.L. 2005, c. 51 ("Chapter 51"), which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.*

*Executive Order No. 117 extends the provisions of Chapter 51 in two ways:*

- 1. The definition of "business entity" is revised and expanded so that contributions by the following individuals also are considered contributions attributable to the business entity:*
  - Officers of a corporation, any person or business entity who owns or controls 10% or more of the corporation's stock, and professional services corporations, including any officer or shareholder, with the term "officer" being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1), with the exception of officers of non-profit entities;*
  - Partners of general partnerships, limited partnerships, and limited liability partnerships and members of limited liability companies (LLCs), with the term "partner" being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1);*
  - In the case of a sole proprietorship: the proprietor; and*
  - In the case of any other form or entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, and partner thereof;*
  - Spouses, civil union partners, and resident children of officers, partners, LLC members, persons owning or controlling 10% or more of a corporation's stock, all shareholders of a professional services corporation, and sole proprietors are included within the new definition, except for contributions by*

*spouses, civil union partners, or resident children to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides.*

2. *Reportable contributions (those over \$300.00 in the aggregate) to legislative leadership committees, municipal political party committees, and candidate committees or election funds for Lieutenant Governor are disqualifying contributions in the same manner as reportable contributions to State and county political party committees and candidate committees or election funds for Governor have been disqualifying contributions under Chapter 51.*

***Executive Order No. 117 applies only to contributions made on or after November 15, 2008, and to contracts executed on or after November 15, 2008.***

*Updated forms and materials are currently being developed to combine the requirements of P.L. 2005 c. 51 and Executive Order 117. In the meantime, beginning November 15, 2008, the intended Awardee only will be required to submit, in addition to the currently required Chapter 51 and Chapter 271 forms, the Certification of Compliance with Executive Order No. 117 form(s). The Chapter 51 and EO 117 forms are available on the Department of Treasury Division of Purchase and Property's website at:*

*<http://www.state.nj.us/treasury/purchase/forms.htm#eo134> and the Chapter 271 form is also available on the Department of Treasury Division of Purchase and Property's website at:  
<http://www.state.nj.us/treasury/purchase/forms/CertandDisc2706.pdf>*

## APPENDIX A – AFFIRMATIVE ACTION MANDATORY LANGUAGE

Revised: October, 2008

### EXHIBIT B

#### MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

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

N.J.A.C. 17:27

#### CONSTRUCTION CONTRACTS

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

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

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

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

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

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Division may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following

provisions, A, B and C, as long as the Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities to minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(ii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in paragraph (i) above, whenever vacancies occur. At the request of the Division, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iii) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by

practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Division an initial project workforce report (Form AA 201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on-the-job and/or off-the-job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).