

New Jersey Turnpike Authority

P.O. Box 5042, Woodbridge, NJ 07095



April 3, 2018

Document Change Announcement

***2016 Standard Supplementary Specifications
Small Business Enterprise Regulation Update
DCA2018SS-02***

Subject: Revisions to

**Advertisement for Proposals, and
Appendix X, New Jersey Turnpike Authority Requirements for Small Business Enterprise Subcontractors'
and Set-Aside Program for Construction Contracts**

Description of Change:

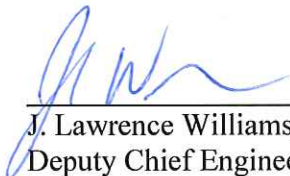
The Advertisement for Proposals and Appendix X are updated per N.J.A.C. 17:13-1.1 et seq.

Notice to New Jersey Turnpike Authority Staff and Design Consultants

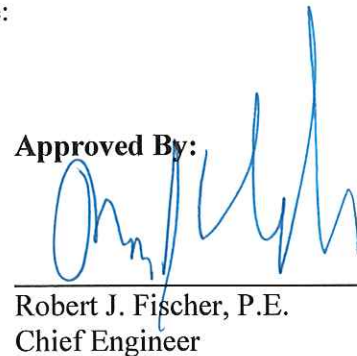
Effective immediately, all contracts currently in the design phase shall incorporate the revisions herein. For advertised contracts awaiting the opening of bids this revision shall be incorporated via addendum. Contact your New Jersey Turnpike Authority Project Manager for instruction.

The revisions may be accessed on the Authority's webpage:
<http://www.state.nj.us/turnpike/professional-services.html>

Recommended By:


4-3-18
J. Lawrence Williams, P.E.
Deputy Chief Engineer - Construction

Approved By:


Robert J. Fischer, P.E.
Chief Engineer

Distribution: Senior Staff Engineering, Law, Maintenance and Operations Depts., UTCA, AGC, All Prequalified Consultant Firms, File

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 Milepost **[insert number]** to **[insert number]** in **[insert location]**, New Jersey.

The principal items of work include:

Asphalt Concrete Bridge Surfacing5,700 Tons

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

Bidders must be prequalified under Contract 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 cases where the sum of the ratings exceeds \$10 million, the joint venture's rating will be Unlimited.

Prequalification or renewal of prequalification must be received by the New Jersey Turnpike Authority's (the "Authority") Engineering Department no later than **[insert date]**. Prequalification documents are available on the Authority's website (<http://www.njta.com/doing-business/construction-and-maintenance-contracts>) under the location entitled "Contractor Prequalification Requirements". Prequalification documents may be obtained at the Contracts and Specifications Office or will be mailed to prospective bidders upon request.

PUBLIC WORKS CONTRACTOR REGISTRATION

Contractors shall comply with the Public Works Contractor Registration Act, as amended, N.J.S.A. 34:11-56.48 et seq. No contractor shall bid on any contract for public work, as defined in N.J.S.A. 34:11-56.26(5), unless the contractor is registered pursuant to this Act. No contractor or subcontractor, including lower tier subcontractors, shall engage in the performance of any public work subject to the contract, unless the contractor or subcontractor is registered pursuant to the Act.

BUSINESS REGISTRATION ACT

Proof of valid business registration with the State of New Jersey Department of Treasury, Division of Revenue, shall be submitted by the successful bidder in the form of a valid Business Registration Certificate in compliance with N.J.S.A. 52:32-44, as amended. No contract shall be awarded without proof of business registration with the Division of Revenue.

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 Authority that Small Business Enterprises ("SBEs"), as determined and defined by the State of New Jersey, Department of the Treasury, **Division of Revenue & Enterprise Services**~~Division of Minority & Women Business Development~~ ("Division") 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.

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 Small Business Enterprise ("SBE") firm. Subcontracting goals do not apply if the prime contractor is a registered SBE firm.

All bidders must comply with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 relating to affirmative action rules prohibiting discrimination in employment and requiring affirmative action in performance of contracts awarded to the successful bidder.

Proposals must be submitted electronically through the Bid Express Electronic Bidding portal on the Authority's website (<http://www.njta.com/doing-business/construction-and-maintenance-contracts#>) under the

location entitled "Bid Express". Paper bids will not be accepted.

The deadline to submit proposals is [insert time]* o'clock Prevailing Time on the morning/afternoon of **[insert date]*** at which time proposals will be downloaded by the Authority from the Bid Express website and said proposals will be publicly opened and read.

The bidders are advised that the Proposal Bond form or the Letter of Surety form provided in the Authority's Electronic Bidding software must be executed by the bidder when this type of proposal guaranty is selected by the bidder. Bidders are also advised that Public Law 2005, Chapter 51 (Executive Order 134 - McGreevey 2004) and Executive Order 117 (Corzine 2008) Certification and Disclosure forms must be executed by the intended awardee only.

Contract documents may be examined or purchased online starting **[insert date]*** at the Bid Express website, www.bidx.com. Instructions may also be found through the Electronic Bidding link found on the Authority's website (<https://www.bidx.com/njta/main>). The 2016 Standard Specifications, which form an integral part of the Contract, are available from the Authority at an additional cost of Forty Dollars (\$40.00) per copy.

Bidders are invited to attend a non-mandatory pre-bid presentation to be conducted by the Authority for the purpose of providing general information regarding the work involved under this Contract.

Prospective bidders may register via e-mail to **[Authority's Project Engineer]*** by **[Time & Date]*** at **[e-mail address]***. The e-mail subject line should read, "Contract No. **[XXXX.XXX]** Pre-Bid Presentation". Instructions related to the time of the presentation and other details regarding the presentation will be made available via e-mail by **[Date]***. The presentation will be conducted on **[Date]***.

The Contractor may request to visit the site for his own familiarity prior to the proposal due date. All requests shall be via e-mail to **[Authority's Project Engineer]*** at **[e-mail address]***. The e-mail subject line should read, "Contract No. **[XXXX.XXX]** Site Visit Request".

The pre-bid site visit will be the only opportunity for the prospective bidders to visit the site. During the pre-bid site visit a tour of the site will be conducted. No other site visits will be scheduled. Arrangements for the prospective bidders to gain access to the site for the pre-bid site visit will be provided via e-mail to the prospective bidders that register, as indicated above.

Nothing discussed or presented at the pre-bid site visit shall be considered part of the contract. All requests for interpretation or correction must be submitted in accordance with Subsection 102.05.

NEW JERSEY TURNPIKE AUTHORITY

(Insert Name) Chief Engineer or Director of Maintenance

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 the Compliance Manager at the Authority's Office of Equal Employment Opportunity (hereinafter "Office of EEO") at (732) 750-5300 (ext. 8733). 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 Revenue & Enterprise Services~~~~Division of Minority and Women Business Development~~ ("Division") in ~~N.J.A.C. 17:13-1.14-1.4~~ ~~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 Revenue & Enterprise Services~~~~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 et seq. and N.J.A.C. 17:14-1.1 et seq.~~ prior to registering with the State and submitting bids to the Authority.

I. Standards Of Eligibility For Small Business Enterprises

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

(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 or the applicable Federal revenue standards established at 13 CFR 121.201 whichever is higher.
5. For construction contracts, the business must have gross revenues that do not exceed \$3 million or 50% of the applicable revenue standards set forth in Federal regulation at 13 CFR 121.201 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 completed 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. ~~In addition, the Division may limit participation in its small business set aside programs to businesses whose individual owners do not exceed \$750,000 in personal net worth.~~
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 is higher.

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 three categories:
 - a) SBE 4 – Small businesses whose gross revenues do not exceed \$3 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.
 - 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, 5 and 6. Small businesses registered only 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 and 6 only. Small businesses registered in category SBE 6 above will be eligible to participate in set-aside contracts and subcontracting programs available to businesses registered only in category SBE 6.

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

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

- (A) Applicants shall accurately and honestly supply all information required by the Division.
- (B) When a business has been approved as a 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 Small Business Set Aside Unit 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, shall:
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 ~~12 not less than three months and not more than 24~~ months; and
 4. ~~Order the Division of Revenue to R~~evoke the registration of the business as a small business for a period of one year ~~and remove the business~~ from the State's small business database.
- (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 ~~and/or knowing reporting of false information~~, shall disqualify the business for inclusion in the small business database under these rules and shall order the Division of Revenue to revoke the registration of the business as a small business for a period of one year from the State's small business database. ~~reporting of false information, shall disqualify the business for inclusion in the small business database and may subject the business to adverse action by contracting agencies and/or the Attorney General or other enforcement agencies.~~
- (E) When a business has been registered as a small business on the basis of false information knowingly supplied by the business, but the business has not been awarded a State contract, ~~the Small Business Set-Aside Unit~~, 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, shall order the Division of Revenue to revoke the registration of the business as a small business for a period of one year from the State's small business database. ~~the Division, 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, shall revoke the registration of the business as a small business, remove the business from the State's small business database and notify the Office of the Attorney General and State contracting agencies.~~

III. Registration Procedures For Small Business Enterprise

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

- (A) Registration procedures established by the Division are as follows:
1. The business shall register at www.newjerseybusiness.gov ~~http://www.state.nj.us/njbusiness/contracting/sbsa~~, for Premier Business Services; and
 2. The business shall apply to the Division by completing the Vendor Registration Form, available online at www.newjerseybusiness.gov ~~http://www.state.nj.us/njbusiness/contracting/sbsa~~.
 - a) As part of its application to the Division, a business shall document its principal place of business, independent status, number of employees, and its gross revenues. This documentation shall 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 and Workforce Development or certificates of incorporation issued by the New Jersey ~~Division of Revenue and Enterprise Services~~ ~~Department of State~~.
 - b) If an applicant knowingly supplies inaccurate or false information, the application shall be denied under this chapter, the business shall be disqualified from inclusion in the small business database, and the business may be subject to adverse action by

contracting agencies, the Attorney General or other enforcement agencies.

- c) As part of its application, the business shall pay a non-refundable \$167.00-100.00 application fee for a ~~three~~five-year registration.
- (B) When an application for registration as a small business has been completed, the Division shall determine whether to approve it and notify the business of its decision. If approved, the Division will issue the business a registration certification and add the business to the small business database.
- (C) The small business database shall be used by State contracting agencies in confirming eligibility for set-aside contracts and subcontracts and in reporting progress toward established contract award goals.
- (D) Every ~~three~~five years, no later than 20 days prior to expiration of the small business's registration, and not earlier than 60 days prior to the expiration of such registration, a business interested in remaining registered as a small business shall comply with the registration procedures pursuant to (A) above.
- (E) Annually the business shall submit, prior to the anniversary of the registration notice, an annual verification statement, in which it shall attest that there is no change in the ownership, revenue eligibility or control of the business at the state's website <https://www.njportal.com/DOR/SBERegistry/>.
1. If the business fails to submit the annual verification statement by the anniversary date, the registration will lapse and the business will be removed from the State's small business database. If the business seeks to be registered, it will have to reapply and pay the \$167.00~~100.00~~ application fee.
 2. If the business submits the annual verification statement by the anniversary date but either the verification statement or other information received by the Division indicates that the business is no longer eligible for registration as a small business, the Division shall revoke the registration pursuant to this chapter and following revocation, the business shall be removed from the State's small business database. The business may appeal this revocation pursuant to the procedures set forth at N.J.A.C. 17:13-3.4.

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

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

- (A) A business may apply to the Division at any time to be registered as a small business and to be placed on the small business database.
- (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 due at 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 ~~and 17:14-4.3~~

- (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;~~
 - 5.4. The bidder shall provide all potential subcontractors with detailed information regarding the specifications;
 - 6.5. The bidder shall attempt, wherever possible, to negotiate prices with potential subcontractors which submitted higher than acceptable price quotes; and
- (B) 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

(A) 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.

(B) 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 SBE Certificate of Participation form, a copy of which is attached to this

Appendix, 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.

(C) 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

Copies of the following forms are attached to this Appendix:

(A) The Authority SBE Form A: SBE Participation Schedule:

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: Affidavit of Small Business Enterprise: (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, nor in cases wherein the Bidder is an SBE itself.

(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: SBE 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: SBE Certificate of Participation:

This is the payment report that must be completed on a monthly basis by the successful Bidder, unless the Bidder is an SBE itself.

X. Definitions

See ~~N.J.A.C. 17:13-1.2 and 17:14-1.2, 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, or demolition of or repair or other changes or improvements of any kind whatsoever to any State public structure or facility. The term also includes contracts for consultant services, supervision, inspection, and other functions incidental to actual construction.~~ **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 the design or construction project.~~ **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**” means any party under contract or agreement to provide goods and services, or design and/or construction services to the State of New Jersey.~~ **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 contracting dollars awarded by each State contracting agency to small businesses in order to comply with the small business provisions of the Set-Aside Act. It further means the percentage of State contracting dollars that the Authority makes a good faith effort to award to small businesses under Executive Order No. 84 (2006).~~ **Goal** means the statutorily determined percentage of contracting dollars awarded by the Authority to small businesses in order to comply with the small business provisions of the Set Aside Act. It further means the percentage of State contracting dollars that the Authority makes a good faith effort to award to small businesses under Executive Order No. 71 (1993).
- (E) ~~“**Registration**” means the process by which any small business or veteran-owned business can have its eligibility for participation in the Division’s small business programs determined.~~ **Registration** means the process by which any business can have its eligibility for participation in the Division’s small business programs determined.
- (F) ~~“**Set-aside contract**,” for the purposes of construing and applying the rules in this chapter only, means a contract, specifically designated by the Authority, in whole or in part, for award to a small business either at a prime or subcontract level.~~ **Set Aside Contract** means a contract specifically designated by the Authority as exclusively available for award to a small business.
- (G) ~~“**Small business**” 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 (35 hours or more, not including seasonal and part-time employees employed for less than 90 days, if seasonal and casual part-time employment are common to that industry, and consultants employed under other contracts not related to the goods and services which are the subject of the specific contract for which the business wants to be eligible as a small business) and for goods and services contracts, has gross revenues that do not exceed\$ 12 million or the applicable Federal revenue standards established at 13 CFR 121.201, incorporated herein by reference, as may be adjusted periodically (see www.sba.gov/tools/resourcelibrary/laws_and_regulations/index.html), and satisfies any additional eligibility standards under this chapter. For design and construction contracts, has gross revenues that do not exceed\$ 3 million, or 50 percent of the applicable annual revenue standards set forth in Federal regulation at 13 CFR 121.201 (see www.sba.gov/tools/resourcelibrary/laws_and_regulations/index.html) or whose gross revenues do not exceed the applicable annual revenue standards set forth in Federal regulation at 13 CFR 121.201, as may be adjusted periodically.~~ **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 or the applicable Federal revenue standards established at 13 CFR 121.201 whichever is higher; and satisfying any additional eligibility standards under this chapter.~~

- ~~(H) "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 \$3 million, 50% of the applicable revenue standards set forth in Federal regulation 13 CFR 121.201 or the applicable annual revenue standards set forth in 13 CFR 121.201, whichever is higher.~~
- ~~(H) "State Contracting Agency" or "Contracting Agency" means any board, commission, committee, authority, division, department, college, or university of the State, which possesses the legal authority to enter into or award contracts for goods and services or design and construction contracts. A list of State contracting agencies shall be maintained at www.newjerseybusiness.gov, and updated as necessary to reflect the addition or elimination of agencies. ~~State Contracting Agency" or "Contracting Agency" means any board, commission, committee, authority, division, department, college or university of the State which possesses the legal authority to award and make construction contracts except where expressly inconsistent with statutory authority.~~~~
- ~~(I) "Subcontractor" means a third party that is engaged by a contractor to perform all or part of the goods, services, or construction services included in a contract with the Authority. ~~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.~~~~
- ~~(J) "Target" means the numerical objectives which the Authority contracting agency establishes, on a contract by contract basis, in order to meet its small business goal. ~~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.**~~~~

CONTRACT NO. [ENTER NO.]

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	S	S	S	S	S		**	**	TYPE OF WORK TO BE PERFORMED	DOLLAR AMOUNT OF SUBCONTRACTOR WORK***	SUB- CONTRACT %
	B	B	B	B	B	B		M	W			
	E	E	E	E	E	E		B	B			
	1	2	3	4	5	6		E	E			

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 _____

SBE CERTIFICATE OF PARTICIPATION

FORM E

Construction
Period

Estimate No.

Contract No: _____ (Note if Final) _____

Ending _____

NAME & ADDRESS OF SBE SUBCONTRACTOR	PAY ITEM & DESCRIPTION OR PARTS THEREOF, OF WORK PERFORMED	DATES OF COMMENCEMENT & ESTIMATED COMPLETION	ACTUAL AMOUNT PAID THIS PERIOD	TOTAL AMOUNT PAID TO DATE	ESTIMATED AMOUNT TO BE PAID AT END OF CONTRACT	M/WBE (optional)
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	

CERTIFICATES FOR PAYMENTS SUBMITTED WITHOUT THE COMPLETED SBE CERTIFICATE OF PARTICIPATION WILL NOT BE PROCESSED.

IN WITNESS WHEREOF the undersigned has hereunto set its

General Contractor

Hand and seal this _____ day of _____, 201_

By: _____

General Contractor's SBE Liaison Officer

WITNESS OR ATTEST:

Telephone

Number _____