

New Jersey Turnpike Authority

P.O. Box 5042, Woodbridge, NJ 07095



May 24, 2019

Document Change Announcement

2016 Standard Supplementary Specifications

Appendix X - SBE Requirements

DCA2019SS-05

Subject: Revisions to

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

Section 106 Legal Relations And Responsibility, Subsection 106.24 Small Business Enterprise Program

Description of Change:

This DCA clarifies construction contract requirements for Small Business Enterprise (SBE) reporting. SBE Prime Contractors must now complete a new Form F. All forms have been moved from Appendix X to the Authority website.

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: <https://www.njta.com/doing-business/professional-services>

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NOTE: All text herein are REVISIONS, as indicated by the tracked changes, to the latest version of the 2016 Standard Supplementary Specifications.

106.24 Small Business Enterprise Program

In the first sentence of the first paragraph, delete "and N.J.A.C. 17:14-1.1 et seq."

Delete the fourth and fifth paragraphs and replace it with the following:

The Contractor is required to complete and submit, within 7 days after Notice of Award, the Authority form entitled "Proposed Schedule of Small Business Enterprise Participation", which is included on the Authority's website. The form must identify the Contractor's compliance with the Authority's SBE goals for this Project.

In the event that the Bidder cannot meet the above mentioned SBE participation goals set for this contract, Authority Form entitled "SBE Unavailability Certification", which is included on the Authority's website, must also be completed and submitted. The Bidder must demonstrate to the Authority's satisfaction that a genuine good faith effort has been made to meet this percentage.

In the first sentence of the seventh paragraph, delete "N.J.A.C. 17:14-5.2" and replace it with "N.J.A.C 17:13-4".

Delete the eighth paragraph and replace it with the following:

If the Contractor, for any reason, at any time during the course of the Contract, intends to make any additions, deletions or substitutions to the list of firms on the "SBE Participation Schedule" form submitted to the Authority, the Contractor shall notify the Authority in writing of such proposed changes and shall submit a revised "SBE Participation" form from the Authority's website to the Authority for each such proposed change. Any such proposed changes must comply with the requirements and procedures set forth in Appendix X.

Delete the third paragraph and replace it with the following:

The Contractor agrees to make a good faith effort to award at least ____% 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. The Contractor shall comply with the reporting requirements as described in Appendix X.

OR

Delete Subsection 106.24 in its entirety and replace it with the following:-

There are no Small Business Enterprise Program ~~requirements-goals~~ for this contract. The Contractor shall comply with the reporting requirements as described in Appendix X.

~~Bidders are required to complete and submit within [insert number of days] days after Notice of Award, Authority Form entitled proposed "Schedule of Small Business Enterprise Participation", which is included in the proposal and attached to Appendix X. This Form must identify your compliance with the Authority's SBE goals for this Project. Failure to complete and submit this Form will be cause for rejection of your Proposal.~~

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") in N.J.A.C. 17:13-1.1 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 Revenue & Enterprise Services (Division)~~ Division as a ~~Small Business Enterprises ("SBE")~~ 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. 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

(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

- (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, 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 months; and
 4. Order the Division of Revenue and Enterprise Services to revoke the registration of the business as a small business for a period of one year 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 and Enterprise Services to revoke the registration of the business as a small business for a period of one year from the State's small business database.
- (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. 17:13-3.1, shall order the Division of Revenue and Enterprise Services to revoke the registration of the business as a small business for a period of one year from the State's small business database.

III. Registration Procedures For Small Business Enterprise

See N.J.A.C. 17:13-3.1

- (A) Registration procedures established by the Division are as follows:
1. The business shall register at www.newjerseybusiness.gov, 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
 - 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.
 - 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 application fee for a 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 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 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

- (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, which are located on the Authority website, 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

- (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 provide all potential subcontractors with detailed information regarding the specifications;
 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~~ [located on the Authority website](#):

(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.

- (F) The Authority SBE Program Form F: SBE Certificate of Participation (Prime is SBE):

If the Bidder is an SBE itself, the Bidder shall complete this form and attach it with every Pay Estimate.

X. Definitions

See N.J.A.C. 17:13-1.2

- (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.
- (B) **"Consultant"** means an architect, engineer, construction manager, or other provider of technical and professional services in support of the design or construction 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.
- (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).
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.

Pages Appendix X-10 through Appendix X-14 are deleted from the Standard Supplementary Specifications and SBE Forms A through E now appear on the Authority's website at <https://www.njta.com/doing-business/construction-and-maintenance-contracts> under "Information and Forms for Construction Contracts."