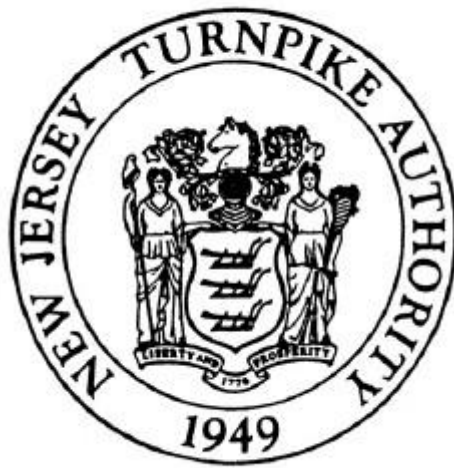


**NEW JERSEY TURNPIKE AUTHORITY**

**Procurement Manual**



January 2019

---

# Table of Contents

I.	INTRODUCTION .....	3
A.	DEFINITIONS.....	3
B.	PURPOSE OF THE MANUAL .....	3
C.	NEW JERSEY TURNPIKE AUTHORITY'S MISSION AND RESPONSIBILITIES .....	4
D.	REVENUE SOURCES AND EXPENDITURES .....	4
E.	ROLE AND ORGANIZATION OF THE PMM DEPARTMENT .....	4
F.	TAX EXEMPT STATUS.....	4
II.	GENERAL PROCUREMENT POLICY .....	4
A.	PRINCIPLE OBJECTIVES .....	4
B.	SUPPORTING OBJECTIVES AND GUIDELINES .....	5
C.	CONTRACT ADMINISTRATION .....	5
D.	WRITTEN STANDARDS OF ETHICAL CONDUCT .....	6
III.	LEGAL AUTHORITY FOR PROCUREMENT ACTIVITIES .....	6
A.	APPLICABLE STATE LAWS.....	6
B.	REGULATIONS .....	6
C.	EXECUTIVE ORDERS.....	6
D.	INTERNAL PROCEDURES – PROFESSIONAL SERVICES .....	6
IV.	LEVELS OF AUTHORITY .....	7
A.	BOARD OF COMMISSIONERS .....	7
B.	EXECUTIVE DIRECTOR.....	7
V.	INTERNAL AND EXTERNAL REVIEWS AND APPROVALS OF PROCUREMENT .....	7
A.	TECHNICAL REVIEW.....	7
B.	LEGAL REVIEW .....	7
C.	BOARD OF COMMISSIONERS APPROVAL .....	8
D.	EXTERNAL- DEPARTMENT OF TREASURY – CHAPTER 51 UNIT REVIEW & APPROVAL .....	8
E.	EXTERNAL – OFFICE OF THE STATE COMPTROLLER \$10 MILLION.....	9
VI.	PROCUREMENT PROCESSES .....	9
A.	GENERAL POLICY.....	9
B.	PLANNING.....	9
C.	IDENTIFICATION AND JUSTIFICATION OF NEED .....	10
D.	BUDGETING AND PROCUREMENT INITIATION .....	10
E.	COST AND PRICE ANALYSIS .....	10
VII.	TYPES OF PROCUREMENTS.....	11
A.	FORMALLY ADVERTISED CONTRACTS .....	11
B.	COOPERATIVE PURCHASING AGREEMENTS .....	11
C.	EXCEPTIONS TO PUBLIC SOLICITATIONS .....	12
VIII.	PARTICULAR PROCUREMENT/CONTRACT REQUIREMENTS .....	12
A.	BONDING REQUIREMENTS AND BID GUARANTIES .....	13
B.	INSURANCE REQUIREMENTS .....	13
C.	LIQUIDATED DAMAGES .....	14
D.	OPTIONS (CONTRACT EXTENSIONS AND 3-YEAR OPEN END OPTION FOR EQUIPMENT) .....	15
E.	SMALL BUSINESS ENTERPRISE PARTICIPATION IN PROCUREMENT CONTRACTS .....	16
F.	MISCELLANEOUS – NOTICE OF AWARD, CONTRACT EXECUTION, AUDIT AND PROTEST RESOLUTION .....	16

## **I. INTRODUCTION**

### **A. DEFINITIONS**

“Authority” – The New Jersey Turnpike Authority

“Board” – The Authority’s Board of Commissioners

“EO No. \_\_\_\_ [Governor Year]” - Executive Order issued by the stated governor in the stated year

“Manual” – This procurement manual

“OSC” – New Jersey Office of State Comptroller

“PMM Department” – Procurement and Materials Management Department

“Policies” – The Authority’s procurement policies, procedures and standards set forth in this Manual

“PO” – Purchase order issued upon processing a requisition

“PR” – Purchase requisition used to initiate procurement of one time or fixed order of goods or services

“RFB” – Request for bid used in public advertised solicitation

“RFP” – Request for proposal used in professional services solicitation

“RM” – Requisition memorandum used to initiate procurement of term contract

“Requesting Department” – The requesting department or departmental user

“Roadways” – Collectively the New Jersey Turnpike and the Garden State Parkway

“SBE” – A vendor which is registered by the New Jersey Treasury Department as a small business enterprise

“Vendors” – Outside vendors, contractors, consultants, or firms that the Authority engages in procurement contracts

### **B. PURPOSE OF THE MANUAL**

As an instrumentality of the State of New Jersey, the Authority is governed by State Laws and their implementing regulations. This Manual is designed to set forth the policies, procedures and standards that govern the lawful procurement of goods and services necessary for the Authority to fulfill its mission.

The Policies, set forth in this Manual, apply to the Authority as a whole. Accordingly, this Manual is intended to be used as a comprehensive and practical guide by all Authority employees involved in any procurement. The Policies are designed to ensure that materials and services are obtained in a timely, efficient and economical manner. In addition, the underlying solicitations must be fair, public, transparent and competitive.

**C. NEW JERSEY TURNPIKE AUTHORITY'S MISSION and RESPONSIBILITIES**

The Authority is dedicated to the safe, efficient movement of people and goods over two of the busiest toll roads in America, namely, the New Jersey Turnpike and the Garden State Parkway. The Roadways are a critical link in the transportation network of the Northeastern United States and the safest, quickest and most convenient route for hundreds of thousands of commuters, truckers and recreational travelers every day. The Authority is responsible for the construction, maintenance and operations of the Roadways along with their facilities.

**D. REVENUE SOURCES AND EXPENDITURES**

The Authority receives the majority of its revenue from toll collection, as well as from EZ-Pass account fees and contractual concession revenue.

The Authority's expenditures fall into two categories:

1. Operating - expenses associated with the daily operation of the Roadways, maintenance and administration, including the operation of the New Jersey State Police (Troop D).
2. Capital - expenses associated with the purchase of equipment, services, and construction or repair of roadways and facilities.

**E. ROLE AND ORGANIZATION OF THE PMM DEPARTMENT**

The Policies are primarily executed by the PMM Department. This responsibility involves planning, strategic sourcing and implementation of the Authority's contracts for goods and services. In addition, the PMM Department will plan, organize and control the flow of inventory materials from the initial purchase to the Requesting Departments. To facilitate its mission, the PMM Department is divided into commodity and functional specialties.

**F. TAX EXEMPT STATUS**

The Authority as an instrumentality of the State of New Jersey is exempt from State and local Sales and Use Taxes. For procurement purposes, this exemption means that sales made by a Vendor directly to the Authority for any good or service is not subject to New Jersey Sales and Use Tax. This exemption extends to direct sales transactions between a Vendor and the Authority only. Vendors may obtain a copy of the New Jersey Division of Taxation Form ST-4, Exempt Use Certificate, from the PMM Department certifying the Authority's exemption.

**II. GENERAL PROCUREMENT POLICY**

**A. PRINCIPLE OBJECTIVES**

In support of the Authority's overall goal of providing quality service to the public and, consistent with State Laws and Procurement Best Practices, the PMM Department's objectives are as follows:

1. To promote open, full, and free competition in the purchasing of goods and services;
2. To procure quality goods and services in a reliable and timely manner at a reasonable cost;
3. To conduct the Authority's business in a transparent manner with integrity, fairness and impartiality so as to maintain the trust and confidence of the public;
4. To make positive efforts to utilize New Jersey SBE's as sources of supply and to maximize their opportunity for participation in all contracts;

5. To require all Vendors to take affirmative action in their employment and contracting practices to ensure that applicants and employees are not discriminated against based on race, color, religion, sex, sexual orientation or national origin and to comply with the Americans with Disabilities Act.

**B. SUPPORTING OBJECTIVES AND GUIDELINES**

1. Awards shall be made to responsive and responsible bidders as well as the most qualified professional firms that possess the requisite ability to perform successfully under the terms and conditions of a proposed contract.
2. The Policies should encourage competition and the solicitations shall incorporate clear and accurate descriptions in the specifications or scope-of-services. Such specifications shall not contain features which unduly restrict competition. Some of the situations which may be considered to unduly restrict competition and which should be avoided are:
  - a. Placing unreasonable requirements on firms in order for them to qualify to do business;
  - b. Requiring unnecessary experience and excessive bonding;
  - c. Allowing restrictive pricing practices between firms or between affiliated companies;
  - d. Awarding non-competitive contracts to professionals and other consultants that are on retainer contracts;
  - e. Specifying only a "brand name" product instead of allowing an "or equal" product to be offered and failing to describe the performance or other salient characteristics of the brand name product so bidders of alternative products to the "brand name" are sufficiently informed to offer potentially acceptable alternates.;
  - f. Supporting any arbitrary action in the procurement process;

**C. CONTRACT ADMINISTRATION**

1. POLICY

The Authority shall maintain a system of contract administration to ensure that the Authority and Vendors comply with the terms, conditions and specifications of contracts and/or purchase orders and applicable State requirements. The contract administration system consists of:

- a. The policies and procedures set forth in this Manual.
- b. The departmental separation of functions within the Authority for the performance of procurement, project management and financial responsibilities and the operating procedures used by each department.
- c. The enterprise-wide financial management systems used to track obligations and commitments, including the General Ledger System, the Accounts Payable and Purchases.
- d. The qualified technical, financial and management personnel assigned to each department.
- e. The procurement database and contract file systems.
- f. The standard contract forms and POs created and maintained by the PMM Department that include necessary terms and conditions to monitor and control performance of specified work and compliance with Federal and State laws.

#### **D. WRITTEN STANDARDS OF ETHICAL CONDUCT**

The Authority has adopted the New Jersey Uniform Code of Ethics, a copy of which can be viewed by going to this web site: <http://nj.gov/ethics/docs/ethics/uniformcode.pdf>. By submitting a bid/proposal, Vendors agree to be subject to the intent and purpose of said Code and to the requirements of the New Jersey State Ethics Commission.

### **III. LEGAL AUTHORITY FOR PROCUREMENT ACTIVITIES**

The Authority functions under its enabling statute, N.J.S.A. 27:23-1 et seq. The underlying authority to enter into procurement contracts for materials and services is enumerated in N.J.S.A. 27:23-6.1. The Policies are also governed and guided by a number of other State statutes, regulations, Executive Orders and internal best practices including but not limited to:

#### **A. APPLICABLE STATE LAWS**

1. Disclosure of Investment Activities in Iran, New Jersey Public Law 2012, c. 25
2. Affirmative Action Regulations, New Jersey Public Law 1975, c. 127
3. Set-Aside Act for Small Businesses, Public Law 1985, c. 384
4. Amendment to Bidding Threshold, New Jersey Public Law 1999 c.440
5. Conflict of Interest Law, New Jersey Public Law 1977, c.182
6. NJ Prevailing Wage Act, New Jersey Public Law 1963, c.150
7. Public Work Contractors Registration Act, New Jersey Public Law 1999, c. 238
8. Business Registration, New Jersey Public Law 2004, c. 57
9. Disclosure of Political Contributions, New Jersey Public Law 2005, c. 271
10. Contractor Political Contributions Compliance, New Jersey Public Law 2005, c. 51 as extended by Executive Order No. 117 (Corzine 2008).
11. Source Disclosure Certification, New Jersey Public Law 2005, c. 92
12. Apparel – Made in the USA, Public Law 2009, c. 247
13. Communications with Bidders; Evaluation Committee Qualifications; Homeland Security Purchasing, New Jersey Public Law 2005, c. 336
14. Office of State Comptroller Compliance for contracts over \$2million. New Jersey Public Law 2007, c 52

#### **B. REGULATIONS**

1. Authority Regulations, entitled: “Subchapter 2 Purchasing and Contracting”, N.J.A.C. 19:9-2.

#### **C. EXECUTIVE ORDERS**

1. Enhances EO additional categories for SBE, EO No. 151 (Corzine 2009)
2. Energy Efficiency, EO 11 (Corzine 2006)
3. Monitoring Minority and Women State Contracts, EO 37 (Corzine 2008)
4. Fair and Transparent State Contracting, EO 37 (Corzine 2006)
5. Independent Auditor, EO 122 (McGreevey 2004)
6. Vendor Disclosure (Location for Performing Services), EO 129 (McGreevey 2004)
7. SBE Set-Aside Contracts, EO 71 (McGreevey 2003)
8. Bond Sales, EO 26 (Whitman 1994)

#### **D. INTERNAL PROCEDURES – PROFESSIONAL SERVICES**

1. Best Practices for Awarding Professional Service Contracts memorandum dated March 24, 2010 based upon New Jersey Office of State Comptroller “Best Practices for Awarding Service Contracts”, Report (March 2010.)

(NOTE: All Statutes, Regulations and Executive Orders may be accessed online by visiting the New Jersey State Legislature's Statutory Database.)

**IV. LEVELS OF AUTHORITY**

The Authority adheres to the Policies authorized by its Board.

**A. BOARD OF COMMISSIONERS**

The Authority is governed by an eight-member Board, including the New Jersey Commissioner of Transportation, who serves as Chair of the Board. The Governor does not serve on the Board, but appoints each of its members and has the statutory authority to overturn an action of the Board by vetoing the minutes of the meeting within 10 days of the date at which the action was taken.

The Board authorizes awards of all procurement contracts except in cases where it has delegated authorization to the Executive Director (See B below)

**B. EXECUTIVE DIRECTOR**

The Executive Director and the Executive Director's designees (namely, the Deputy Executive Director and/or the PMM Director) have the authority to approve procurement contracts up to and including \$100,000.

**V. INTERNAL AND EXTERNAL REVIEWS AND APPROVALS OF PROCUREMENT**

It is the policy of the Authority, and a reflection of the separation of duties among functions at the Authority, to require specific reviews and approvals during the procurement process. Responsibilities for these reviews and approvals are assigned by discipline. They are designed to provide functional input into each procurement action and to serve as a check and balance during the process. The following briefly outlines each review and approval process which is necessary during the procurement cycle. More specific information delineating personnel responsibilities during the various stages of the procurement process is included in the appropriate sections of the Manual.

**A. TECHNICAL REVIEW**

1. A technical review and approval performed by the Requesting Department is required for each solicitation package prior to its public release. This review should include but not be limited to bid specifications, bid quantities, line item descriptions and their accuracy.
2. A thorough evaluation of the bidders/proposers bid or proposal is also required once bids or proposals are received. This evaluation will serve to document a bidder's or proposer's technical responsiveness and responsibility. A written memo documenting this evaluation process is required from the requesting department.

**B. LEGAL REVIEW**

1. All solicitation packages are reviewed by the Law Department prior to public release to ensure all legal requirements are met, and to provide comments or recommend changes to other sections of the documents. Comments received are incorporated into the final package, as appropriate.
2. Once responses to solicitation packages are received, the PMM Department reviews the documents for completeness and, in concert with the Requesting Department, recommends the apparent low responsive and responsible bidder or proposer for award of the subject

contract. If, however, the documents are non-responsive or contain other significant discrepancies versus the specifications or the scope of services, the PMM Department will consult the Law Department for the appropriate action on such procurement. The Law Department also reviews all procurement contracts and signs as to form prior to execution by the Executive Director.

### **C. BOARD OF COMMISSIONERS APPROVAL**

Procurement contracts requiring Board approval are presented to the Board by the Executive Director at an open public meeting in the form of an Agenda Item prepared by the PMM Department and reviewed by the Law Department. Prior to the presentation of the Item, a series of internal reviews are conducted to ensure that the Item complies in all respects with the policies, strategy and direction of executive management and the Board. The Board process consists of the following meetings and reviews:

1. Agenda Staff Review  
Approximately four weeks prior to a regularly scheduled Board Meeting, the Executive Director leads the review of the first drafts of the pending Agenda Items. Following identification and discussion, Items are then advanced to the next meeting or “pulled” for reconsideration by the Requesting Department.
2. Agenda Committee Review  
Approximately two weeks prior to the Board Meeting, Agenda Items are presented to a Committee consisting of less than a quorum of the Board and led by the Chairman or his/her designee. The PMM Director presents the procurement Items with comments and clarifications from the Director of the Requesting Department.
3. Board Meeting  
Board Meetings are typically conducted on a monthly basis. Procurement-related Agenda Items are presented to the Board by the PMM Director in open session. Agenda Items are brought to a vote and, if approved by the majority of the Board members, the Agenda Items are passed.
4. Governor’s Review and Veto Period  
The minutes of the Board Meeting are prepared and forwarded to the Office of the Governor of the State of New Jersey for review following the Board Meeting. The approval of the Board has no validity unless approved by the Governor or until 10 days after the delivery of the minutes to the Governor, and the Governor has taken no action to approve or veto any item. The Authority can execute a procurement contract only after the Governor’s 10-day veto period expires.

### **D. EXTERNAL- DEPARTMENT OF TREASURY – CHAPTER 51 UNIT REVIEW & APPROVAL**

The Chapter 51 Unit in the Department of the Treasury is responsible for monitoring compliance with P.L. 2005, c. 51, as extended by EO 117 (Corzine 2008). Business entities are not eligible for award of any contract in excess of \$17,500 if they, or any individual whose contributions are attributable to the entity, have solicited or made monetary or in-kind contributions to certain State and local political campaigns, political organizations or committees.

1. Pre-Award Notification and Approval: Contracts > \$17,500

PMM Department staff shall forward the Chapter 51/EO 117 Certification and Disclosure Forms completed by the successful bidders/proposers and submitted with their bids/proposals to the New Jersey Treasury Department for review. No Authority contract will be awarded until the Chapter 51 Unit has notified the Authority that the



bidder/proposer is eligible for award.

**E. EXTERNAL – OFFICE OF THE STATE COMPTROLLER \$10 MILLION**

1. Contracts over \$2 million but less than \$10 million require post award notification to the OSC no later than twenty business days after award. The Compliance Form along with the Commission Agenda Item is reviewed by the Law Department before it is forwarded to the OSC.
2. Contracts with estimated value over \$10 million require OSC review and approval prior to advertisement. For these contracts the PMM Department will send draft solicitation documentation to the OSC.

**VI. PROCUREMENT PROCESSES**

**A. GENERAL POLICY**

1. To ensure that all goods and services purchased by the Authority are necessary and in the best interests of the Authority, as well as the public, certain pre-solicitation activities should be performed by the Requesting Department. They include planning, justification and budgeting for the procurement contract. While the PMM Department will assist the User Department in performing these activities, the responsibility for identifying the Authority's needs rests with the Requesting Department.
2. **Prior to the contract solicitation, Requesting Departments may communicate if appropriate with potential vendors or bidders regarding products or services. However, Requesting Departments are absolutely prohibited from any negotiations with potential bidders prior to the advertisement of a contract solicitation and, following the advertisement of a contract solicitation, are absolutely prohibited from any and all communications with potential bidders regarding the solicitation.**

**B. PLANNING**

1. All requests for procurement actions should be planned and well thought out prior to a request being made.
2. If appropriate, economic alternatives to purchase should be explored. These alternatives may include performing the work in-house, determining if the item/service is available from another public entity or source.
3. Leasing is another option. When conducting a lease versus purchase analysis, consideration should be given to the length of time an item is needed, the expected useful life of the item, whether the lease can be capitalized, whether the lessor or lessee will be responsible for maintenance, repair and replacement costs and the residual or scrap value of an item at the end of its useful life.
4. If the item is one of a recurring nature, research should be performed to determine if there are any ongoing or existing procurement contracts within the Authority that would satisfy the Requesting Department's need, and if so, consideration should be given to combining procurement contracts. Such an action may be advantageous both from an administrative and financial perspective. Alternatively, there may be some instances where breaking out elements that have been combined in a single purchase would generate a more economical purchase.

**C. IDENTIFICATION AND JUSTIFICATION OF NEED**

Procurement contracts should be justified by the Requesting Department to ensure that unnecessary or duplicative items are not being procured. The receipt by the PMM Department of the electronic purchase requisition shall serve as the justification for purchases or term contracts and evidence that such purchases or contracts are budgeted and funded. Justification considerations include:

1. The Basis of the Need
  - a. State of good repair needed;
  - b. Replacement or modernization required;
  - c. Health, safety, environmental requirement;
  - d. System expansion or improvement.
  
2. Utilization Requirements
  - a. No similar items available;
  - b. Similar items already being used to maximum;
  - c. Items being replaced cannot economically be continued in use;
  - d. Quantities meet the anticipated need for the period covered by an existing price agreement.
  
3. Other Considerations
  - a. Item or service is required by statute, regulations or contractual terms and contractual conditions.
  - b. Value of the proposed items warrant its acquisition cost.
  - c. Favorable economic factors warrant the purchase at the time indicated;
  - d. Failure to purchase poses unacceptable risk to reliability of operations.

**D. BUDGETING AND PROCUREMENT INITIATION**

1. The Requesting Department must take all steps required to ensure funding and approval is available for a procurement contract.
  
2. An electronic PR is the proper initiating document. The PR must be completed for each item or service to be procured prior to issuance of a purchase order or term contract for the purchase of goods or services over a stated extended period of time. A purchase order is a formal request to a vendor for the supply of goods or services. Once approved, the electronic PR stands as the official document memorializing the Authority's need and the availability of funding for a particular purchase.
  
3. A RM is a form of PR used to initiate procurement of a term contract. Upon completion of the RM solicitation process, a notice of award is issued to the Vendor.

**E. COST AND PRICE ANALYSIS**

To ensure that the Authority is paying a fair and reasonable price, it is the policy of the Authority to complete some form of cost and/or price analysis for every procurement contract, including contract modifications. The complexity of the analysis needed will vary in relationship to the complexity, degree of competition, and dollar value of the procurement.

## VII. TYPES OF PROCUREMENTS

The Authority engages in the following types of procurements,

### A. **FORMALLY ADVERTISED CONTRACTS**

In accordance with the State procurement laws, it is Authority's policy to publicly advertise contracts to the maximum extent practicable for all procurement contracts above the published bid threshold, N.J.S.A. 27:23-6.1 and Executive Order 37 (Corzine 2006).

#### 1. REQUESTS FOR BIDS

RFBs are issued by the Authority when the procurement lends itself to a firm, fixed price contract and the selection of the successful bidder can be made on the basis of price and any price-related factors (for examples, transportation costs, life-cycle costs, discounts) included as selection criteria in the RFB. In general, bids are publicly solicited and a firm, fixed price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the RFB, is lowest in price. A copy of the "Instructions to Bidders" which is included in every RFB and which outlines the bidding requirements, including the standard contract terms and conditions can be found on the Authority's website: [https://www.njta.com/media/4551/instructions to bidders 05 10 2019.pdf](https://www.njta.com/media/4551/instructions_to_bidders_05_10_2019.pdf)

#### 2. REQUESTS FOR PROPOSALS

Requests for Proposals ("RFPs") are issued by the Authority to select consultants to perform professional or consultative services contracts. It is the Authority's policy to use a transparent, competitive procurement process to select such consultants, in accordance with EO 37 (Corzine) and the OSC "Best Practices for Awarding Service Contracts" Report dated March 2010.

### B. **COOPERATIVE PURCHASING AGREEMENTS**

The Authority is permitted by law to use various cooperative purchasing agreements with other State and federal entities, to take advantage of the favorable contract prices obtained by other governmental entities through their own public and competitive procurement processes. Use of such cooperative purchasing agreements when possible generally provides a financial benefit to the Authority, both in lower contract costs and greater efficiency in the use of Authority staff time.

#### 1. NEW JERSEY STATE CONTRACTS

As an instrumentality of the State, the Authority is eligible to purchase off of any State-wide contract and any New Jersey State Cooperative Purchasing contract. State of New Jersey Contracts are reviewed as an alternative to an Authority individual purchasing if the item/service needed is available under State contract and it is unlikely that the Authority could obtain a more favorable price. Information on the State Purchasing Program can be found at the website operated by the State's Division of Purchase & Property ([https://www.state.nj.us/treasury/purchase/coop\\_agency.shtml](https://www.state.nj.us/treasury/purchase/coop_agency.shtml)).

#### 2. OTHER STATE ENTITIES

Under its Enabling Statute, the Authority is permitted to directly enter (without competitive solicitation) into procurement contracts with vendors who hold contracts with the following public agencies:

- a. New Jersey Sports and Exposition Authority;
- b. New Jersey Meadowlands Commission;
- c. New Jersey Water Supply Authority;
- d. South Jersey Transportation Authority;
- e. Port Authority of New York and New Jersey;
- f. New Jersey, Delaware River Port Authority and
- g. Higher Education Student Assistance Authority

In procuring goods and services, the Authority will consider whether it is cost effective and efficient to “piggy back” off of those contracts.

3. FEDERAL GOVERNMENT/ Western States Contracting Alliance (WSCA)

The Authority is also eligible in certain instances to utilize cooperative purchasing arrangements with other States and their respective political subdivisions, such as Western States Contracting Alliance or the Federal Government. The Authority’s eligibility to participate in these programs varies. As of the release date of this Manual, the Federal General Services Administration’s Cooperative Purchasing Program is available to the Authority (via the State Contract System) for the following schedules only: Supply Schedule 70 - Information Technology (IT); the Consolidated Schedule containing IT Special Item Numbers; and Supply Schedule 84 - Total Solutions for Law Enforcement, Security, Facility Management Systems, Fire, Rescue, Special Purpose Clothing, Marine Craft, and Emergency/Disaster Response. The Authority may also purchase off of any GSA Schedule contract to facilitate recovery from major disasters, terrorism, or nuclear, biological, chemical, or radiological attacks.

**C. EXCEPTIONS TO PUBLIC SOLICITATIONS**

1. Informal Solicitation

In accordance with its Regulations and other State laws, there are instances in which the Authority may award contracts for goods or services without advertisement. The Authority does not have to publicly advertise for contracts where the estimated contract value is below the public bid threshold. It is however, the Authority’s policy in accordance with N.J.A.C. 19:9-2.3 and EO 37 (Corzine 2006), to obtain informal competitive quotations for these small dollar contracts (“Informal Solicitation”).

2. Sole Source Contracts

In addition, the Authority may, upon written recommendation by the PMM Director, award a contract without competition where there is only one source for the contract (“sole Source Contract”). N.J.A.C.19:9-2.2(d) 1.

3. Emergency Contracts

Furthermore, when there exists a threat to health, welfare or safety of the public or property under emergency conditions or the exigency of the situation does not allow sufficient time to advertise and award contracts by public bidding, the PMM Director may waive the requirement for formal competitive procurement process. N.J.A.C 19:9-2.2(d) 2.

**VIII. PARTICULAR PROCUREMENT/CONTRACT REQUIREMENTS**

The Authority’s Procurement Regulations and sound business practices require the consideration of contractual risk allocation and management issues in order to increase the probability of a successful

procurement. Some requirements are mandated by State law. This section covers such topics as: Bonding, Insurance, Liquidated Damages, Retainage, Options and SBE requirements. The following discusses each particular requirement:

**A. BONDING REQUIREMENTS AND BID GUARANTIES**

1. Policy

- a. It is generally the practice to secure bid bonds or other acceptable forms of bid guaranty for competitive procurement contracts in excess of \$100,000. Acceptable alternative to a bid bond includes a cashier's check, certified check or irrevocable letter of credit issued by a Federally-insured financial institution.
- b. Certain contracts also require Contract/Performance and/or Payment Bonds.

2. Guidelines - Bid Bonds

- a. The purpose of the bid bond or other bid guaranty is to serve as a guaranty that the bidder will, upon acceptance of its bid by the Authority, execute such contractual documents as may be required within ten (10) working days after notice of intent to award. If the bidder fails to enter into the contract with the Authority, the bidder is liable for the amount of loss suffered by the Authority up to the value of the bid bond or other bid guarantee. Such loss may be partially or completely recovered by the Authority by exercising its rights against the bidder and/or the Surety Company or other financial institution providing the bid guaranty.
- b. Bid bonds, or bid guarantees, shall accompany most public bid contracts in excess of \$100,000. The bid bond or bid guaranty shall generally be set for an amount equal to 10% of the bid total. The bid bond must be submitted at the time of the bid opening.
- c. Any bonds submitted must be issued by surety companies licensed to do business in the State of New Jersey.

3. Guidelines – Contract Bonds

- a. The purpose of the contract bond is to protect the Authority in the event that the Vendor fails to perform or breaches the contract for any reason. If the Vendor fails to perform the contract, the Vendor is liable for the amount of loss suffered by the Authority up to the value of the contract bond. Such loss may be partially or completely recovered by the Authority by filing a claim with the surety company or other insurance company providing the contract bond.
- b. Contract bonds are required primarily for high dollar service and equipment contracts (above \$100,000) where performance is critical to the Authority's operations.
- c. The bond amounts must be stated in the solicitation document. The bond amount varies depending on the nature and value of the contract, and can range from 10% to 100% of the contract value.
- d. The contract bond will be required following the 10-day Governor's veto period and prior to the issuance of the contract.

**B. INSURANCE REQUIREMENTS**

1. Policy

The Authority requires that Vendors providing goods and services to the Authority carry sufficient insurance to protect the Authority from third party lawsuits and property damage.

2. Guidelines

- a. Depending on the type of work to be performed, the circumstances of the contract, and the dollar value, the Authority may require any or all of the following types of insurance:
  - i. Commercial/General Liability Insurance, inclusive of
  - ii. Personal Injury,
  - iii. Property Damage,
  - iv. Professional Liability Insurance
  - v. Builders Risk Insurance
  - vi. Workers Compensation and Employers Liability Insurance
  - vii. Business Automobile Liability Insurance
  - viii. Pollution Liability Insurance
  - ix. Umbrella Liability Insurance
  - x. Cyber Liability Insurance
- b. Prior to soliciting bids or proposals, the amount and types of insurance required for a given procurement will be determined by the PMM Department, in consultation with the Law Department. For routine purchasing actions, the standard contract form(s) insurance provisions shall apply.
- c. All insurance policies written under a contract must have the New Jersey Turnpike Authority, its officers, commissioners and agents named as additional insured.
- d. All policies must provide 30 day's prior Notice of Cancellation.

3. Responsibilities

- a. The PMM Department shall:
  - i. Include requirements for insurance in solicitation documents;
  - ii. If necessary, seek and receive approval from the Law Department regarding the type and the amount of insurance required;
  - iii. Secure proof of insurance from the Vendor prior to award of the contract;
  - iv. Review Insurance Certificates to ensure they meet Authority requirements;
  - v. Approve the form of Insurance Certificate is compliant. Actual copies of insurance policies may be required.

**C. LIQUIDATED DAMAGES**

1. Policy

All anticipated contracts are evaluated to determine if a liquidated damage clause is appropriate. Liquidated damages provisions should be used when the Authority reasonably expects to suffer damages should a contractor delay the completion of a project, or should other requirements of a contract be improperly performed, and the Authority can estimate the amount or extent of such damages.

2. Guidelines

Liquidated damage provisions are required for selected service and equipment contracts and typically are calculated as a rate per day, or some other relevant and applicable financial unit of measure.

Prior to the publication of a solicitation, a detailed rationale and estimate regarding the amount of liquidated damages to be assessed in the event of a Vendor's failure to perform should be developed. Such rationale shall take into consideration the cost impact to the Authority if late performance occurs, including the combined effects of schedule, manpower and other related work elements.

3. Responsibilities

- a. The PMM Department shall:
- i. Determine, in conjunction with the Requesting Department if a liquidated damage clause is necessary.
  - ii. Assist the Requesting Department in developing the rationale for the amount of liquidated damages to assess.
  - iii. Document the PMM Department file concerning the liquidated damage amount to be included in the contract documents.
  - iv. Ensure the contract documents include the agreed upon liquidated damage rate.

**D. OPTIONS (CONTRACT EXTENSIONS AND 3-YEAR OPEN END OPTION FOR EQUIPMENT)**

1. General

All Authority contracts generally contain an option to extend the contract for a specified period of time, or to permit the Authority to purchase additional equipment during a set period. The exercise of the option is at the Authority's discretion however, the Vendor must concur with the request.

2. Extension Procedures

- a. The PMM Department notifies the Requesting Department that a contract is eligible for extension 120 days prior to its expiration date.
- b. Upon receipt the Requesting Department must submit a Requisition requesting such extension and at what contract value (if lower than authorized total). The request for value must be based upon prior expenditures as well as anticipated needs. A fully approved PR documents the Authority's approval to extend such contract at their discretion.
- c. Once completed, the Vendor is notified of the contract extension option and the terms. If concurrence, a formal extension letter is signed and kept on file.

3. Modification Procedures

- a. There are instances in which it is in the Authority's best interest to increase the authorized total amount of a contract.
- b. The Requesting Department has to justify the need to increase the authorized total contract value, such as when funds are depleted on a term contract, and the goods or services are required prior to the competitive solicitation and establishment of a new contract.

4. Open-Ended Option To Purchase Additional Equipment

- a. A RFB or an Informal Solicitation (usually for Maintenance equipment) can contain an "Open-Ended Option to Purchase Additional Equipment. This permits the Authority to procure additional equipment of the newest models within a stated term at the same or negotiated prices.
- b. An option may not be exercised unless it has been determined that the option price is better than prices available in the open market or that the option is the more advantageous offer at the time it is exercised. The contract file shall document the steps taken to make this determination.

**E. SMALL BUSINESS ENTERPRISE PARTICIPATION IN PROCUREMENT CONTRACTS**

1. It is the policy of the Authority to allow SBE vendors the maximum feasible opportunity to compete in accordance with State laws governing SBE participation in procurement contracts. The Authority's SBE attainment goal (including Engineering contracts) is 25 percent of all contracts. Accordingly, implementation of the Authority's SBE programs is an integral and vital component of the procurement process:
2. The Authority sets-aside certain informal and public bid contracts exclusively for SBE vendors.
  - a. PMM staff reviews each PR/RM to determine whether there are sufficient (usually more than five) SBE vendors listed on the Authority's data base which can supply or perform the services under the specific commodity.
  - b. If a RFP or Informal Solicitation is designated as a SBE Set-Aside, the advertisement and bid documents must clearly state the designation.
  - c. Non-SBE vendors which submit bids for the SBE Set-aside contracts will be deemed ineligible and their bids rejected.
3. The Authority has adopted the SBE-Sub-Consulting Program for all professional services contracts.
  - a. The RFP contains a provision requiring consultants to make a good faith effort to utilize SBEs if the consultants plan to subcontract any part of the awarded contract.
  - b. Good faith efforts are detailed in the RFP.
  - c. The Requesting Department's contract administrator is responsible for monitoring the Consultant's use of SBEs.
4. The Law Department is required to report its SBE contract utilization to the State on a quarterly basis.

**F. MISCELLANEOUS – NOTICE OF AWARD, CONTRACT EXECUTION, CONTRACT AUDIT AND PROTEST RESOLUTION**

1. PMM staff distributes copies of the Agenda Items to all bidders/proposers following the monthly Board Meetings. The Agenda Items indicate those Vendors which were approved for contract awards. This serves as notice to participants of the outcome of the competitive procurements (all subject to the Governor's 10-day veto expiration).
2. PMM staff prepares the procurement contracts for execution by the Vendors and the Executive Director and distributes the fully executed contracts as well as POs and NOAs to the Vendors and Requesting Departments.
3. All procurement contracts are subject to audit by the Authority, its External Auditor, employees, officers or representatives for seven years after completion of the contract. These contracts are also subject to audit or review by the OSC for five years after final payments.
4. Any bidder or Vendor who is aggrieved in connection with the solicitation or award of a procurement contract may protest to the Authority. The procedures to resolve a protest are described in the Authority's Regulations (N.J.A.C. 19:9-2.12) and can be found on the Authority's website at: <https://www.njta.com/about/regulations-and-policies>.