

New Jersey Turnpike Authority

P.O. Box 5042, Woodbridge, NJ 07095



June 30, 2023

Document Change Announcement

2016 Standard Supplementary Specifications

Elections Transparency Act

DCA2023SS-09

Subject: Revisions to

Advertisement for Proposals

Appendix B, Requirements of Public Law 2005, Chapter 51 (Executive Order 134) and Executive Order 117 Section 102 Bidding Requirements And Conditions, Subsection 102.17 Public Law 2005, Chapter 51 and (Executive Order 134) & Executive Order 117

Description of Change:

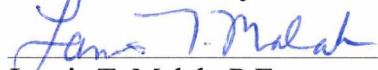
This DCA makes revisions as a result of the Elections Transparency Act.

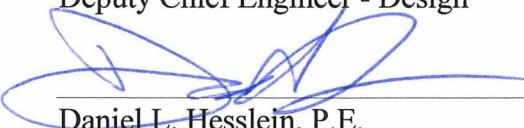
Notice to New Jersey Turnpike Authority Staff and Design Consultants

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.

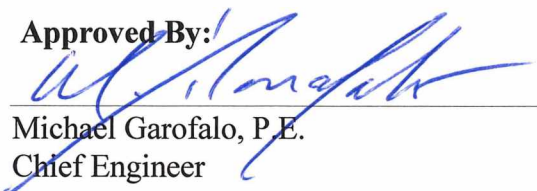
The revisions may be accessed on the Authority's webpage: <https://www.njta.com/doing-business/professional-services>

Recommended By:


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

NOTE: The following tracked changes indicate REVISIONS to the latest version of the 2016 Standard Supplementary Specifications.

ADVERTISEMENT FOR PROPOSALS

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

ELECTIONS TRANSPARENCY ACT, P.L. 2023, c. 30; FAIR AND OPEN EXCEPTION

In accordance with the Elections Transparency Act, P.L. 2023, c. 30 (the "Act"), effective January 1, 2023, all contracts awarded by the Authority pursuant to a fair and open process as defined in the Act are no longer subject to the political contributions proscription that prohibited a contract award if certain reportable contributions were solicited or made by a potential contract awardee. The Authority has determined that this procurement meets the requirements of a fair and open process and, accordingly, any such solicited or reportable contributions made by any bidder submitting a bid will not prohibit any contract award thereto if such bidder is deemed the lowest, responsible bidder.

ANNUAL REPORT OF CONTRIBUTIONS TO ELECTION LAW ENFORCEMENT COMMISSION

All business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000.00 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

INSTRUCTIONS TO BIDDERS

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 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 and Executive Order 117 (Corzine 2008) Certification and Disclosure forms must be executed by the intended awardee only.~~

102.17 Public Law 2005, Chapter 51 and (Executive Order 134) & Executive Order 117

Award of Contract

This Subsection is deleted in its entirety.

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

~~In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, Executive Order 134 was signed on September 22, 2004 ("EO 134"). The Order is applicable to all State agencies, the principal departments of the executive branch, any division, board, bureau, office, commission within or created by a principal executive branch department, and any independent State authority, board, commission, instrumentality or agency. Executive Order 134 was superseded by Public Law 2005, c.51, signed into law~~

on March 22, 2005. In September 2008, Executive Order 117 was signed and become effective November 15, 2008. It applies to the same government contracting entities subject to Executive Order 134, but extends the political contribution restrictions by expanding the definition of "business entity" to include, for example, more corporate shareholders and sole proprietors. Executive Orders 134 and 117, and Public Law 2005, c.51 contain restrictions and reporting requirements that will necessitate a thorough review of the provisions. Pursuant to the requirements of PL 2005, c.51, the terms and conditions set forth in this Appendix are material terms of any contract resulting from this bid solicitation:

DEFINITIONS

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

- (A) ~~Contribution~~ means a contribution reportable as a recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act." P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.
- (B) ~~Business Entity~~ means any natural or legal person; business corporation (and any officer, person, or business entity that owns or controls 10% or more of the corporation's stock); professional services corporation (and any of its officers or shareholders); limited liability company (and its members); general partnership (and its partners); limited partnership (and its partners); in the case of a sole proprietorship: the proprietor; a business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction, including its principals, officers, or partners. The definition of a business entity also includes (i) all principals who own or control more than 10 percent of the profits or assets of a business entity ; (ii) any subsidiaries directly or indirectly controlled by the business entity; (iii) any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv) if a business entity is a natural person, that person's spouse or child, residing in the same household.

BREACH OF TERMS OF THE LEGISLATION

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

CERTIFICATION AND DISCLOSURE REQUIREMENTS

- (A) The Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor, or to any State, county or municipal political party committee, or legislative leadership committee during specified time periods.
- (B) Prior to the award of any contract or agreement, the intended Awardee shall submit the Certification and Disclosure form, certifying that no contributions prohibited by the Legislation have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the means of N.J.S.A.

~~19:44A-3(n) and N.J.A.C. 19:25-1.7. Failure to submit the required forms will preclude award of a contract under this bid solicitation, as well as future contract opportunities.~~

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

STATE TREASURER REVIEW

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

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

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

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

~~Executive Order No. 117 (Corzine 2008), which is designed to enhance New Jersey's efforts to protect the integrity of government contractual decisions and increase the public's confidence in government, builds on the provisions of P.L. 2005, c. 51 ("Chapter 51"), which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.~~

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

- ~~1) The definition of "business entity" is revised and expanded so that contributions by the following individuals also are considered contributions attributable to the business entity:~~
 - ~~○ Officers of a corporation, any person or business entity who owns or controls 10% or more of the corporation's stock, and professional services corporations, including any officer or shareholder, with the term "officer" being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1), with the exception of officers of non-profit entities;~~
 - ~~○ Partners of general partnerships, limited partnerships, and limited liability partnerships and members of limited liability companies (LLCs), with the term "partner" being defined in the same manner as in the regulations of the Election Law Enforcement Commission regarding vendor disclosure requirements (N.J.A.C. 19:25-26.1);~~
 - ~~○ In the case of a sole proprietorship: the proprietor; and~~
 - ~~○ In the case of any other form or entity organized under the laws of this State or any other state or foreign jurisdiction: the entity and any principal, officer, and partner thereof;~~
 - ~~○ Spouses, civil union partners, and resident children of officers, partners, LLC members, persons owning or controlling 10% or more of a corporation's stock, all shareholders of a professional services corporation, and sole proprietors are included within the new definition, except for contributions by spouses, civil union partners, or resident children to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides.~~
- ~~2) Reportable contributions (those over \$300.00 in the aggregate) to legislative leadership committees, municipal political party committees, and candidate committees or election funds for Lieutenant Governor are disqualifying contributions in the same manner as reportable contributions to State and county political party committees and candidate committees or election funds for Governor have been disqualifying contributions under Chapter 51.~~

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

~~contracts executed on or after November 15, 2008.~~

~~Updated forms and materials have been developed to combine the requirements of P.L. 2005 c. 51 and Executive Order 117. Beginning November 15, 2008, the intended Awardee only will be required to submit the Two Year Chapter 51/Executive Order 117 Vender Certification and Disclosure of Political Contribution form(s). The Chapter 51 and EO 117 forms are available on the Department of the Treasury Division of Purchase and Property's website at: <https://www.state.nj.us/treasury/purchase/forms.shtml>. P.L. 2005 c. 271 disclosure requirements are separate and different from the disclosure requirements under P.L. 2005 c. 51 and Executive Order 117 and shall be submitted by the intended Awardee at least ten (10) days prior to entering into the above referenced contract directly to the New Jersey Election Law Enforcement Commission. The Chapter 271 form is also available on the Department of the Treasury Division of Purchase and Property's website at: <https://www.state.nj.us/treasury/purchase/forms/CertandDisc2706.pdf>~~