

**NEW JERSEY DEPARTMENT OF TRANSPORTATION DBE PROGRAM**

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**NEW JERSEY DEPARTMENT OF TRANSPORTATION DBE PROGRAM****POLICY STATEMENT****1. Objectives/Policy Statement (Sections 26.1, 26.23)**

The New Jersey Department of Transportation (NJDOT) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the United States Department of Transportation (USDOT), 49 CFR Part 26. The NJDOT has received federal financial assistance from the USDOT, and as a condition of receiving this assistance, the NJDOT has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the NJDOT to ensure that DBEs as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in USDOT–assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in USDOT assisted contracts;
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

The Executive Director, of the Division of Civil Rights and Affirmative Action has been designated as the NJDOT DBE Liaison Officer. In that capacity, the Executive Director is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by NJDOT in its financial assistance agreements with the USDOT.

NJDOT will disseminate this policy statement to the Deputy Commissioner, Chief of Staff, Assistant Commissioners, and all of the components of our organization. This statement will also be distributed to the DBE and non-DBE business communities that perform work for us on USDOT-assisted contracts.

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The Honorable James S. Simpson, Commissioner  
New Jersey Department of Transportation

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Date

## **SUBPART A – GENERAL REQUIREMENTS**

### **2. Applicability (Section 26.3)**

This document is applicable to the NJDOT and all USDOT Sub-recipients, including Government Organizations, Non-Government Organizations and Metropolitan Planning Organizations, that receive USDOT financial assistance that is administered through the NJDOT. The NJDOT is the recipient of federal-aid highway funds authorized under Titles I and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914; Titles I, III, and V of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), Pub. L. 105-178, 112 Stat. 107; and Titles I, V, and VI of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub L. 109-59.

A sub-recipient is defined for the purposes of this document as any entity, public or private who receives USDOT financial assistance, which is administered through the NJDOT. All sub-recipients that administer contracts with any USDOT funding assistance are required to fully conform to the federal requirements in 49 CFR Part 26. Sub-recipients shall fully conform to the NJDOT's DBE Program (49 CFR Part 26.21). NJDOT will ensure the sub-recipients comply with all requirements. All sub-recipients shall place appropriate DBE clauses in their federally assisted contracts and assign local responsibility to ensure compliance with the enclosed policy (49 CFR Part 26.13).

Upon FHWA approval of this NJDOT DBE Program document, or approval of any changes to the document, all affected sub-recipients will be notified in writing by NJDOT that they must adopt this document.

Sub-recipients, who receive funds through FHWA for bridge and highway capital improvement contracts shall coordinate all DBE related activities, questions or complaints with the NJDOT Division of Civil Rights and Affirmative Action.

### **3. Definitions (Section 26.5)**

The NJDOT will adopt the definitions contained in Section 26.5 for this program.

### **4. Non-discrimination Requirements (Section 26.7)**

The NJDOT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE Program, the NJDOT will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of

defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

## **5. Record Keeping Requirements (Section 26.11)**

### Reporting to USDOT: 26.11(b)

NJDOT will report DBE participation to USDOT through the Federal Highway Administration (FHWA) as follows:

NJDOT will report DBE participation to FHWA on a monthly basis. Monthly participation will be measured in terms of DBE awards and commitments. In addition to monthly participation, the report will track cumulative total DBE participation to show our progress towards meeting the annual DBE Goal.

NJDOT will report DBE participation on a bi-annual basis using the "Uniform Report of DBE Awards/Commitments and Payments." The Uniform Report will contain DBE awards, and commitments as well as actual payments on contracts completed during the reporting period.

### Bidders List: 26.11(c)

The NJDOT will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this listing is to allow use of the bidders list approach in calculating overall goals. The bidders list will include the name, address, DBE status, age, and annual gross receipts of firms.

NJDOT will collect this information in the following ways:

Beginning in Calendar Year 2011, NJDOT will utilize the Civil Rights Labor Management System (CRLMS) to create and maintain its bidders list.

Currently, the identity of many NJDOT bidders is captured through the contract administration and prequalification processes. All prime contractors submitting bids and prime consultants submitting technical proposals must be prequalified to do business with the NJDOT. With the exception of Landscape and Electrical work, a firm does not have to be prequalified to do subcontract work on NJDOT construction projects. Firms intending to sublet work items must complete and submit Form DC-18 to the Regional Construction or Operations Engineer responsible for the applicable project. All sub-consultants must be cost basis approved by the NJDOT. The cost basis approval process allows NJDOT to capture the name, address, DBE non-DBE status, age, and annual gross receipts of NJDOT sub-consultants.

NJDOT maintains lists of all prequalified and cost basis approved firms. NJDOT also maintains prequalification and cost basis approval application data on its firms. This

data includes: Firm name, address, status as a DBE, if applicable, age of the firm, and annual gross receipts. Additionally, NJDOT maintains a list of DC-18 sublet approvals.

## **6. Federal Financial Assistance Agreement (Section 26.13)**

NJDOT has signed the following assurances, applicable to all USDOT-assisted contracts and their administration:

### Assurance: 26.13(a)

The New Jersey Department of Transportation shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The NJDOT shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The NJDOT DBE Program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the NJDOT of its failure to carry out its approved program, the USDOT may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

This language will appear in financial assistance agreements with sub-recipients.

### Contract Assurance: 26.13b

NJDOT will ensure that the following clause is placed in every USDOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the NJDOT deems appropriate.

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **7. DBE Program Updates (Section 26.21)**

Since the NJDOT has received funding authorized by the statute for which this part applies, we will continue to carry out this program until all funds from USDOT financial assistance have been expended. We will provide to USDOT updates representing significant changes in the program.

### **8. Policy Statement (Section 26.23)**

The Policy Statement is elaborated on the first page of this program.

### **9. DBE Liaison Officer (Section 26.25)**

The New Jersey Department of Transportation's Director, Division of Civil Rights and Affirmative Action (DCR/AA) has been designated the NJDOT DBE Liaison Officer (DBELO) and may be contacted as follows:

Melanie L. Armstrong, Esq., Director  
Division of Civil Rights & Affirmative Action  
New Jersey Department of Transportation  
PO Box 600  
Trenton, NJ 08625-0600  
(609) 530-3009

The Director of DCR/AA reports directly to the NJDOT Assistant Commissioner for Administration, and is responsible for developing, implementing and monitoring all aspects of the NJDOT DBE Program. The Director has direct, independent access to the Commissioner of the Department of Transportation concerning DBE Program matters. The Director is assigned the authority to ensure that the NJDOT, as a recipient of federal funds complies with all provisions of 49 CFR Part 26. An organization chart displaying the Director's position in the organization is found in Attachment 1 to this program.

The DCR/AA administers its DBE Program through the Disadvantaged and Small Business Programs (DSBP) and Contractor Compliance Units. These units report directly to the Director, DCR/AA and are responsible for implementation, administration and daily activities associated with the DBE Program. The DSBP Unit is responsible for the overall administration and coordination of NJDOT's DBE Program, including DBE certification, establishing the annual DBE goal, and developing and maintaining statistical data on DBE participation in NJDOT procurement opportunities. The Contract Compliance Unit is responsible for implementing the NJDOT Statewide Construction Contract Compliance Program, which includes establishing and monitoring DBE requirements on all NJDOT contracts.

The Director of DCR/AA:

1. Develops and implements DBE policy;

2. Advises the Commissioner, Deputy Commissioner and other appropriate senior level managers on DBE concerns and achievements;
3. Provides guidance and oversight to managers and other administrators on all DBE Program matters;
4. Promotes the DBE Program internally and externally through public outreach activities;
5. Serves as the disadvantaged and small business enterprise liaison and advocate for NJDOT;
6. Develops and coordinates appropriate supportive and technical services for disadvantaged and small businesses;
7. Plans and participates in seminars aimed at disadvantaged and small businesses;
8. Oversees and coordinates training programs provided to NJDOT staff having responsibilities that link to the DBE Program;
9. Oversees and participates in the annual goal-setting process;
10. Ensures the timely preparation and submittal of DBE reports to USDOT, FHWA; and
11. Represents or assigns DSBP Unit Manager to represent NJDOT in New Jersey's Unified Certification Program.

Specific duties and responsibilities of the DSBP and Contract Compliance Units include the following:

1. Gathering and reporting statistical data and other information as required by USDOT.
2. Reviewing third party contracts and purchase requisitions for compliance with this program.
3. Working with all related program areas to set overall annual goals.
4. Ensuring that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifying contracts and procurements so that small business goals (both DBE goals and race-neutral goals) are included in solicitations.
6. Identifying and establishing appropriate goals for DBE firms' participation on USDOT funded contracts.
7. Reviewing and approving low bidders' Affirmative Action Plans and schedule of DBE participation (Form A) to ensure compliance with the project's DBE requirements.
8. Identifying and seeking resolutions to DBE issues that arise in the execution of contract requirements, including but not limited to prompt payment complaints.
9. Conducting comprehensive reviews on construction projects statewide to ensure that contractors are actively complying with contract DBE requirements.
10. Analyzing NJDOT's progress toward overall DBE goal attainment and identifying ways to improve progress.
11. Participating in pre-bid meetings.
12. Consulting with and advising the Director of DCR/AA on DBE matters.
13. Chairing the DBE Advisory Committee.



14. Providing DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
15. Planning and participating in DBE training seminars.
16. Certifying DBEs according to the criteria set forth in 49 CFR Part 26.
17. Actively participating in the New Jersey Unified Certification Program.
18. Providing outreach to DBEs and community organizations to advise them of opportunities.
19. Maintaining the NJDOT's DBE directory.

The organization chart (Attachment 1) identifies all DCR/AA programs and staff.

### **10. DBE Financial Institutions (Section 26.27)**

It is the policy of the NJDOT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on USDOT-assisted contracts to make use of these institutions. NJDOT has made the following efforts to identify and use such institutions: The Federal Reserve Board compiles quarterly data on financial institutions that participate in the Department of the Treasury's Minority Bank Deposit Program and releases this data about twelve weeks after the end of each quarter. This information comes from the Board's National Information Center database and the quarterly reports of condition that commercial banks and thrift institutions file with their federal supervisory agencies. NJDOT relies on this data to identify those financial institutions that are owned and controlled by socially and economically disadvantaged individuals in the community.

To date NJDOT has identified the following minority owned financial institutions:

Indus American Bank  
1536, Oak Tree Road  
Iselin, NJ 08830  
Phone: (732) 603-8200  
Fax: (732) 603-8383

City National Bank of New Jersey  
900 Broad Street  
Newark, NJ 07102  
Phone: (973) 624-0865  
Fax: (973) 624-5754

BNB Bank NA  
Fort Lee, New Jersey  
2024 Center Avenue, Oak Tree Center  
Fort Lee, NJ 07024

Phone: (201) 592-7474  
Fax: (201) 592-8380

Eastbank NA  
183 Centre Street  
New York, NY 10013  
Phone: (212) 219-9000  
Fax: (212) 219-9208

United Bank of Philadelphia  
30 South 15<sup>th</sup> Street  
Philadelphia, PA 19102  
Phone: (215) 351-4600

Information on the availability of such institutions can be obtained from the DSBP Supervisor.

### **11. Prompt Payment Mechanisms (Section 26.29)**

The following procedures have been implemented by NJDOT to ensure that subcontractors (and suppliers) are paid promptly for satisfactory performance of their subcontract. These procedures will become part of the Contract Special Provisions, and be inserted in the DBE Utilization Attachment under heading XIV, Payment to Subcontractors.

The Department will make monthly payments to the Contractor for work performed and for materials delivered, as specified in 109.06. The Resident Engineer (RE) will calculate the payment in an Estimate consistent with the provisions of the Contract. If not otherwise described in the Contract, the RE will be the sole judge of the amount of progress payment due for partially completed work. The quantities provided in the Estimate may be approximations and may not be based on as-built quantity measurements. The Department will establish the date of the month that the Estimate is processed.

The RE will provide a summary of the Estimate to the Contractor. Before the issuance of each payment, the prime contractor must certify, on forms provided by the Department, that:

1. Each subcontractor or supplier has been paid the amount due from the previous progress payment and shall be paid the amount due from the current progress payment and no retainage is being withheld from any subcontractor on Federally funded projects; or
2. There exists a valid basis under the terms of the subcontractor's or supplier's contract to withhold payment from the subcontractor or supplier, and therefore payment is withheld.

If the certification indicates that the Contractor has withheld or will withhold payment from a subcontractor or supplier, provide written notice, according to N.J.S.A. 52:32-40 and N.J.S.A. 52:32-41, of such non-payment to the subcontractor or supplier. Provide a copy of the notice to the Department and to the Surety that holds the performance bond. Include the reason for withholding payment and state the amount of payment withheld in the notice.

The date that the Department receives the certification will initiate the 20-day approval period under N.J.S.A. 2A:30A-1, *et seq.* The Department will not accept the certification before being requested by the RE.

If no valid basis exists for withholding payment, N.J.S.A. 52:32-40 and N.J.S.A. 52:32-41 authorize any subcontractor or supplier from whom payment is withheld to receive from the Contractor, in addition to any amount due, interest at a rate equal to the prime rate plus one percent if the subcontractor or supplier is not paid within 10 days after receipt by the Contractor of payment by the Department for completed work that is the subject of a subcontract or a material supply agreement. This interest begins to accrue on the tenth day after receipt of payment by the Contractor.

If court action is taken by a subcontractor or supplier to collect payments withheld by a Contractor and it is determined that a valid basis existed for the withholding of those payments, the subcontractor or supplier shall be liable for any court costs incurred by the Contractor in connection with the action.

## **12. Directory (Section 26.31)**

NJDOT participates in the New Jersey Unified Certification Program (NJUCP) along with New Jersey Transit and the Port Authority of New York & New Jersey. The NJUCP maintains an online directory of its certified DBE firms, which is available at [www.njucp.net](http://www.njucp.net). The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE.

## **13. Overconcentration Section 26.33**

NJDOT has not identified an overconcentration of DBEs in any of the work categories where NJDOT would normally contract. However, NJDOT will vary the use of contract goals in work areas if it is determined that there is an over concentration of DBE firms.

## **14. Business Development Programs (Section 26.35)**

NJDOT has not established a business development program.

## **15. Monitoring and Enforcement Mechanisms (Section 26.37)**

The NJDOT will utilize the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. NJDOT will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that the USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR 26.107.
2. NJDOT will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 2 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities (N.J.A.C.16:44-81).
3. NJDOT will also provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished by the DCR/AA's Contract Compliance Unit as described below.

The NJDOT Recommendation to Award process requires all prime contractors to submit DBE Form A, "Schedule of Disadvantaged Business Enterprise Participation," which lists the DBEs they intend to subcontract with at the time of award. Form A is, the prime contractor's DBE participation plan. All contractors with the obligation to use DBE subcontractors must submit the names of those subcontractors on Form A. The prime contractor submits Form A to the DCR/AA within seven business days after being identified as the low bidder on a USDOT-assisted construction contract. The prime contractor must identify the classification, the name of the DBE subcontractor/supplier that will be participating in the project, the address, type of work to be performed, projected start date and completion of work and the dollar amount of the subcontract work. After the Form A has been reviewed and approved, the DCR/AA, will issue a Recommendation to Award memo to the Bureau of Construction Services. The DCR/AA maintains a running tally of this data in its DBE monthly report. In addition, Form DC-29, the Daily Inspector's Report is utilized by project resident engineers to verify that all subcontractors identified by primes are actually performing the work items designated at contract award.

Form AD-267, Monthly Utilization of Disadvantaged/EMERGING SMALL BUSINESS ENTERPRISES is also used as a mechanism to monitor and ensure that work committed to DBEs at contract award is actually being performed by DBEs. Contractors must submit Form AD-267 to the Division of Civil Rights and Affirmative Action by the fifth day after the end of the month. Information Required on Form AD-267 includes the name of the contractor, the project, the dollar amount, the name of the subcontractors participating in the project, description of work performed and

materials provided and the dollar amounts of the subcontract payment for the month and to date.

4. The NJDOT DCR/AA will provide written notification, to all DBE firms listed on the Prime Contractor's Form "A", (DBE Participation Plan) that they have been listed as potential subcontractors on a particular contract. This written notification will also include a "DBE ON-SITE WORK CONFIRMATION FORM" for the DBE firm to complete and return to the NJDOT DCR/AA. The Confirmation Form is formal acknowledgment from the DBE firm of their intent to participate on the project.
5. NJDOT will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

### **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

#### **16. Set-asides or Quotas (Section 26.43)**

The NJDOT does not use quotas in any way in the administration of this DBE program.

#### **17. Overall Goals (Section 26.45)**

The NJDOT has determined its annual DBE goal for Fiscal Years 2011 through 2013 to be 15.61% of the total federal financial assistance the NJDOT will expend on Federal Highway Administration (FHWA) contracts. We project that 9.29% can be achieved through race and gender neutral means, and 6.32% can be achieved through race and gender conscious means.

In accordance with 49 CFR 26.45(f) the NJDOT will submit its overall goal to USDOT on August 1 of each year, unless the FHWA Administrator establishes a different date.

Before establishing the overall goal each year, NJDOT will consult with the Black Chamber of Commerce of North Jersey, Metropolitan Trenton African-American Chamber of Commerce, Statewide Hispanic Chamber of Commerce, National Association of Minority Contractors, Construction Industry Advancement Program, Utility and Transportation Contractors, Associated General Contractors of New Jersey, Atlantic Legal Foundation, Regional Alliance for Small Contractors, New Jersey Association of Woman Business Owners, New Jersey Small Business Development Center, American Subcontractors of New Jersey Inc., National Association of Minority Contractors, and the National Association of Women in Construction to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the NJDOT's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at NJDOT Headquarters for 30 days following the date of

the notice, and that we and the USDOT will accept comments on the goal for 45 days from the date of the notice.

The 45 day notice will be issued in the following newspapers:

The Times of Trenton  
Newark Star Ledger  
Courier Post  
La Voz New Jersey  
Al Dia  
Asbury Park Press

Normally, NJDOT will issue this notice by June 1 of each year. The notice must include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

Our overall goal submission to USDOT will include a summary of information and comments received during this public participation process and our responses.

NJDOT will begin using its overall goal on October 1 of each year, unless we have received other instructions from USDOT. If NJDOT establishes a goal on a project basis, it will begin using its goal by the time of the first solicitation for a USDOT-assisted contract for the project.

### **18. Breakout of Estimated Race-Neutral & Race-Conscious Participation (Section 26.51(a-c))**

The NJDOT will seek to attain a maximum portion of its DBE goal utilizing race and gender neutral means. NJDOT projects that 9.29% of the total federal financial assistance the NJDOT will expend on FHWA contracts can be achieved through race and gender neutral means or methods, and 6.32% of the total federal financial assistance the NJDOT will expend on FHWA contracts can be achieved through race and gender conscious means or methods (see Attachment 3 for a description of the methodology).

The New Jersey Department of Transportation (NJDOT) has established an Emerging Small Business Enterprise (ESBE) certification in order to meet the maximum feasible portion of its DBE goal through race-neutral means in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26.51 (see Attachment 7). To ensure that the maximum feasible portion of the overall DBE goal is met by using race-neutral means, NJDOT will establish Small Business goals on its contracts. Prime contractors may use DBE firms and ESBE firms in order to satisfy these Small Business goals.

For construction contracts, NJDOT will set Small Business goals based on the availability of subcontracting opportunities on a specific project. In the case of professional services agreements, NJDOT will set Small Business goals at the same level as the overall goal.

NJDOT only counts DBE participation when reporting progress toward meeting DBE goals. ESBE participation is not counted. ESBE certification exists solely for the benefit of the DBE program. NJDOT will monitor the effect of ESBE certification on DBE utilization. If it is determined that ESBE certification has a negative impact on DBE utilization, then NJDOT reserves the right to limit, discontinue, or eliminate ESBE certification.

To be eligible for ESBE certification, the firm must be a small business according to SBA size standards and be 51% owned and controlled by one or more economically disadvantaged individuals whose personal net worth does not exceed \$750,000.

### **19. Contract Goals (Section 26.51(d-g))**

DBE and ESBE contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting the overall goal using predominantly race-neutral means.

#### **Establishing Individual Contract Goals for Construction Projects**

Individual DBE and ESBE contracting goals for USDOT federally funded construction projects will be determined by the NJDOT Contractor Compliance Unit with the help of the NJDOT Bureau of Construction Services. The NJDOT Bureau of Construction Services will conduct a review of a construction firm's Engineer's Estimate for a specific project to identify the items typically subcontracted by a prime contractor on similar projects. This review will determine the approximate percentage of the project that will be subcontracted to other firms.

The NJDOT Contractor Compliance Unit will also review the construction firm's Engineer's Estimate along with the Bureau of Construction Service's determination of the subcontracting opportunities in order to project a contracting goal percentage to be subcontracted to DBE and/or ESBE firms.

To ensure that the above goal is proper, reasonable, and realistic, the Contractor Compliance Unit will carefully analyze the firm's Engineer's Estimate, the Bureau of Construction Services sub-contracting determination, and the current list of certified and registered DBE and ESBE firms who perform work typically sub-contracted on these types of projects. When determining availability of DBE and ESBE firms, the Contractor Compliance Unit will also consider other projects that those firms might be participating in. The Contractor Compliance Unit representative will meet with a Bureau of Construction Services Representative before establishing a contracting goal for a specific construction project.

In addition to the aforementioned considerations, the NJDOT will provide the prime contractor with an opportunity to determine the work items that they will perform and those that will be subcontracted to other firms.

### **Establishing Individual Contract Goals for Professional Services Agreements**

The NJDOT sets goals on professional services agreements at the same level as the overall goal. For example, if the overall goal is 15.61%, then NJDOT will set goals on professional services agreements at 15.61%, provided that there are subconsulting opportunities on those agreements.

### **DBE Contract Goals**

The NJDOT will establish DBE contract goals to meet any portion of the overall goal that NJDOT does not project being able to meet using ESBE goals. NJDOT will use DBE contract goals only on those USDOT-assisted contracts that have subcontracting possibilities.

NJDOT is not required to set a DBE contract goal on every USDOT-assisted contract. NJDOT is not required to set each DBE contract goal at the same percentage level as the overall goal. The DBE goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by the overall goal, NJDOT will set contract goals so that they will cumulatively result in meeting any portion of your overall goal NJDOT does not project being able to meet through the use of race-neutral means.

Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any NJDOT contract goal.

NJDOT's DBE contract goals will provide for participation by all certified DBEs and will not be subdivided into group-specific goals.

To ensure that NJDOT's DBE program continues to be narrowly tailored to overcome the effects of discrimination, NJDOT will adjust its use of contract goals as follows:

If NJDOT estimates that it can meet its entire overall goal for a given year through race-neutral means, NJDOT will implement its program without setting contract goals during that year.

*Example:* NJDOT's overall goal for Year I is 12 percent. NJDOT estimates that it can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, NJDOT will not set any contract goals for the contracts that will be performed in Year I.



If, during the course of any year in which NJDOT is using contract goals, NJDOT determines that it will exceed its overall goal, NJDOT will reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If NJDOT determines that it will fall short of its overall goal, then NJDOT will make appropriate modifications in its use of race-neutral and/or race-conscious measures to allow it to meet the overall goal.

*Example:* In Year II, NJDOT's overall goal is 12 percent. NJDOT has estimated that it can obtain 5 percent DBE participation through use of race-neutral measures. NJDOT will therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, NJDOT has already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, NJDOT will use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if NJDOT determines in September that its participation for the year is likely to be only 8 percent total, then it would increase its use of race-neutral and/or race-conscious means during the remainder of the year in order to achieve its overall goal.

If the DBE participation NJDOT has been obtained by race-neutral means alone meets or exceeds its overall goals for two consecutive years, NJDOT is not required to make a projection of the amount of its goal it can meet using such means in the next year. NJDOT will not set contract goals on any contracts in the next year. NJDOT will continue using only race-neutral means to meet its overall goals unless and until it does not meet its overall goal for a year.

*Example:* NJDOT's overall goal for Years I and Year II is 10 percent. The DBE participation it obtains through race-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether NJDOT obtained additional DBE participation through using contract goals in these years.) In Year III and following years, NJDOT does not need to make a projection of the portion of its overall goal it expects to meet using race-neutral means. NJDOT simply uses race-neutral means to achieve its overall goals. However, if in Year VI NJDOT's DBE participation falls short of its overall goal, then it must make a race-neutral projection for Year VII and, if necessary, resume use of contract goals in that year.

If NJDOT obtains DBE participation that exceeds its overall goal in two consecutive years through the use of contract goals (*i.e.*, not through the use of race-neutral means alone), it must reduce your use of contract goals proportionately in the following year.

*Example:* In Years I and II, NJDOT's overall goal is 12 percent, and it obtains 14 and 16 percent DBE participation, respectively. NJDOT has exceeded its goals over the two-year period by an average of 25 percent. In Year III, NJDOT's overall goal is again 12 percent, and its race-neutral projection estimates that it will obtain 4 percent DBE participation through race-neutral means and 8 percent

through contract goals. NJDOT then reduces the contract goal projection by 25 percent (*i.e.*, from 8 to 6 percent) and sets contract goals accordingly during the year. If in Year III NJDOT obtains 11 percent participation, it does not use this contract goal adjustment mechanism for Year IV, because there have not been two consecutive years of exceeding overall goals.

NJDOT maintains data on both race-conscious and race-neutral DBE participation. That data will be reported to FHWA on a monthly basis.

## **20. DBE Utilization Incentive Program**

NJDOT has established a DBE Utilization Incentive Program, in order to encourage prime contractors to utilize the services of DBEs that have never been subcontractors on NJDOT projects. The purpose of this program is to ensure that DBEs have the maximum opportunity to compete for and perform on NJDOT construction projects.

Prime contractors utilizing first time DBEs (DBEs that have never before been utilized) will be given a credit toward their contract goal. This credit will be equal to the actual dollar amount subcontracted to a first time DBE with the total project credit limited to two percent (2%) of the total bid price but will not exceed \$200,000. This extra credit will reduce the percentage of the contract goal.

## **21. Change Orders (Sections 26.51 – 26.53)**

NJDOT's DBE program applies to all its USDOT-assisted contracting, including change orders to an existing contract which have more than a minimal impact on the contract amount.

If there is a change order to a contract on which there is a DBE contract goal, then that contract goal applies to the change order as well as to the original contract. This is true regardless of whether the recipient or the contractor initiates the change order.

For example, suppose that NJDOT awards a \$1 million contract to Firm X. The contract goal is 15 percent. Firm X meets the contract goal by obtaining DBE participation from subcontractors or suppliers amounting to \$150,000.

Part way through performance of the contract, NJDOT determines that additional work is necessary, and issues a change order that will add \$500,000 to the total contract price. The 15 percent contract goal applies to this additional \$500,000.

To meet the contract goal as applied to the change order, Firm X would have to make good faith efforts to obtain an additional \$75,000 in DBE participation. It could meet this obligation either by obtaining the additional \$75,000 in work by DBE subcontractors or suppliers or by documenting good faith efforts.

NJDOT would determine, on a case-by-case basis, what would constitute good faith efforts in the context of a particular change order. This could include modifying the contract goal amount applicable to the change order if circumstances warrant.

There may be situations in which a change order has such a minimal effect on the overall contract amount or the expected DBE participation on a contract that it would not be sensible to alter DBE requirements affecting the contract. If NJDOT that a change order has such a minimal effect, NJDOT should contact the relevant USDOT operating administration for guidance on whether it is necessary to alter DBE requirements affecting the contract.

## **22. Good Faith Effort Procedures (Section 26.53)**

### Demonstration of good faith efforts (26.53(a) & (c))

To demonstrate sufficient reasonable efforts to meet the DBE contract goals, a bidder shall document that it has obtained adequate DBE participation to meet the goal or document the steps it has taken to obtain DBE participation, including but not limited to the following:

- A. Attendance at a pre-bid meeting, if any, scheduled by the Department to inform DBEs of subcontracting opportunities under a given solicitation.
- B. Advertisement in general circulation media, trade association publications, as well as minority-focus media for at least 20 days before bids are due. If 20 days are not available, publication for a shorter reasonable time is acceptable.
- C. Written notification to DBEs that their interest in the contract is solicited;
- D. Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goal;
- E. Efforts made to negotiate with DBEs for specific sub-bids including at a minimum:
  1. The names, addresses and telephone numbers of DBEs that were contacted;
  2. A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and
  3. A statement of why additional agreements with DBEs were not reached.
- F. Information regarding each DBE the bidder contacted and rejected as unqualified and the reasons for the bidder's conclusion;

G. Efforts made to assist the DBE in obtaining bonding or insurance required by the bidder or the Department.

The following individual is responsible for determining whether a bidder has met the contract goal and/or has documented sufficient good faith efforts to be regarded as responsible:

Jeffrey Overton, Manager  
Contractor Compliance Unit  
Division of Civil Rights & Affirmative Action  
New Jersey Department of Transportation  
PO Box 600  
Trenton, NJ 08625-0600  
(609) 530-3888  
Jeffrey.Overton@dot.state.nj.us

Information to be submitted (26.53(b))

The following will be submitted either with the bid or to the Division of Civil Rights and Affirmative Action no later than seven State business days after the date of receipt of bids:

- A. DBE Form "A" - Schedule of DBE Participation – A list of all DBEs participating in the contract, including the scope of work, dollar value and percent of the total contract to be performed by the respective DBE(s).
- B. All firms being counted towards meeting the DBE goal must be certified prior to award of the contract.
- C. In the event that the bidder fails to meet the specified project DBE goal, they must submit within seven State business days of the bid, documentation demonstrating their good faith efforts to meet the goal. In cases where the contract is awarded to the apparent, successful low bidder despite a deficit in meeting the DBE goal, the contractor is informed that no DC-18, Request to Sublet, other than work items shown on the DBE Form "A" will be approved until they meet their DBE goal obligations.

Administrative reconsideration (26.53(d))

If the Division of Civil Rights and Affirmative Action determines that the apparent successful low bidder has failed to meet the goal or demonstrate good faith efforts, the bidder will be afforded the opportunity for administrative reconsideration prior to the award or rejection of the contract. As part of the administrative reconsideration process, the bidder will have the opportunity to present evidences as to whether it met the goal or demonstrated good faith efforts. Upon review of the bidder's submission NJDOT will

render a written decision on the matter. This decision is not administratively appealable to the USDOT.

#### Good Faith Efforts when a DBE is replaced on a contract (26.53(f))

NJDOT will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the resident engineer on the project immediately of the DBE's inability or unwillingness to perform using a Form "A" Revision. The resident engineer will then notify the DCR/AA. The DCR/AA will investigate the matter and make appropriate recommendations and determinations.

#### Sample Bid Specification:

This Project includes a goal of awarding \_\_\_ percent of the total contract value to subcontractors, equipment lessors and/or material suppliers that qualify as Disadvantaged Business Enterprises (DBEs).

1. Failure to meet the minimum goal placed on this project, or to provide a "good faith effort" to meet the minimum goal may be grounds for rejection of the bid as being non-responsive.

2. As a source of information only, a Disadvantaged Business Enterprise Directory is available from the Division of Civil Rights and Affirmative Action. Use of this listing does not relieve the Contractor of their responsibility to seek out other DBE's not listed, prior to bid. If a contractor proposes to use a DBE contractor not listed in the DBE Directory, the proposed DBE firm must submit a completed certification application to the Division of Civil Rights and Affirmative Action, 15 days prior to bid date.

### **23. Counting DBE Participation (Section 26.55)**

Each DBE is subject to a certification procedure to ensure its DBE eligibility status prior to award of contract. In order to facilitate this process it is advisable for the bidder to furnish the names of proposed DBEs to the Department 15 days before bid opening. Once a firm is determined to be a bona fide DBE by the Division of Civil Rights and Affirmative Action, the total dollar value of the contract awarded to the DBE is counted toward the applicable DBE goal.

#### **Commercially Useful Function**

The Contractor may count toward its DBE goal only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element

of the work of a contract and carrying out its responsibility by actually performing, managing and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the contractor shall evaluate the amount of work subcontracted, industry practice and other relevant factors.

If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own workforce, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption. NJDOT may review the evidence and make a determination as to whether or not the firm is performing a commercially useful function. NJDOT's decisions on commercially useful function matters are subject to review by the FHWA, but are not administratively appealable to USDOT.

If the prime contractor is a certified DBE, payments made to the contractor for work performed by the contractor will be applied toward the DBE goal. Payments made to the contractor for work performed by non-DBEs will not be applied toward the goal.

The prime contractor may count 60 percent of its expenditures to DBE suppliers who are not Manufacturers, provided that the DBE supplier performs a commercially useful function in the supply process. The contractor may count 100% of its expenditure to DBE suppliers who are also manufacturers. Manufacturers receive 100% credit toward the DBE goal.

When a DBE subcontractor sublets part of the work of its contract to another firm, the value of the subcontract work may be counted towards the DBE goals only if the subcontractor itself is a DBE. Work that a DBE subcontractor subcontracts to a non-DBE firm, does not count toward DBE goals.

### **Determining whether a DBE Trucking Company is performing a commercially useful function**

The NJDOT will use the following criteria to determine whether a DBE Trucking Company is performing a commercially useful function:

- (1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- (2) The DBE must own and operate at least one fully licensed, insured, and operational truck used on the contract.

- (3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- (4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- (5) The DBE may also lease trucks from a non-DBE, firm including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.
- (6) A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

### **Commercially Useful Function Review**

The Contractor Compliance Unit will institute a Commercially Useful Function (CUF) checklist to ensure that DBE firms working on site are in fact performing a CUF. The CUF review will be the responsibility of a representative from the Contractor Compliance Unit or the appropriate designee.

### **Counting Race Neutral Participation**

Prime contracts awarded to DBEs, DBE participation achieved through the use of Small Business goal setting, and DBE participation achieved without the use of DBE goal setting will be considered race neutral participation.

## **SUBPART D – CERTIFICATION STANDARDS**

### **24. The DBE Certification Process (Sections 26.61 – 26.73)**

NJDOT will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. NJDOT will make our certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

Paul F. Sprewell, Esq., Manager  
Disadvantaged & Small Business Programs Unit  
Division of Civil Rights & Affirmative Action  
New Jersey Department of Transportation  
PO Box 600  
Trenton, NJ 08625-0600  
Phone: (609) 530-3882  
Fax: (609) 530-4030  
Paul.Sprewell@dot.state.nj.us

NJDOT's certification application forms and documentation requirements are found in Attachment 4 to this program.

## **SUBPART E – CERTIFICATION PROCEDURES**

### **25. The New Jersey Unified Certification Program (Section 26.81)**

A Disadvantaged Business Enterprise (DBE) Unified Certification Program (UCP) has been established in the State of New Jersey in accordance with Title 49 CFR Parts 23 & 26 of the Code of Federal Regulation. Pursuant to a Memorandum of Understanding (MOU) signed by all recipients required to participate in the New Jersey Unified Certification Program (NJUCP), NJDOT, New Jersey Transit (NJT) and the Port Authority of New York & New Jersey (PANYNJ) have been designated as Certifying Partners for the NJUCP.

Each of the Certifying Partners is required to administer a DBE certification program in accordance with 49 CFR Parts 23 & 26. As part of the NJUCP, Certifying Partners will make certification decisions on behalf of all USDOT recipients, sub recipients and grantees in New Jersey with respect to participation in the USDOT DBE Program. Certification decisions by the NJUCP shall be binding on all USDOT recipients, sub recipients and grantees within New Jersey.

In addition to the following procedures, the NJUCP will follow all certification procedures and standards of 49 CFR Part 26, and will implement USDOT directives and guidance concerning DBE certification matters. Standard Operating Procedures (SOP) have been developed and will be utilized by all NJUCP Certifying Partners (see Attachment 6). They may be modified as needed and agreed upon by the NJUCP Certifying Partners.

- The NJUCP will not accept an application from a firm having its principal place of business outside of New Jersey if the firm is not certified by the UCP in the state in which it maintains its principal place of business.



- The NJUCP will accept an application from the SBA, but will not automatically recognize the DBE certification of a firm certified by the Small Business Administration (SBA).
- The NJUCP will utilize the USDOT approved Uniform Certification Application and other related certification documents to facilitate “one-stop shopping” for applicants.

Due to a reduction in human resources and an influx of new DBE applications, the NJDOT is experiencing a backlog of new DBE applications. In order to remedy this issue, NJDOT has entered into a contract with the NJ Small Business Development Centers (NJSBDC). Under the terms of the agreement, NJSBDC will conduct full reviews of DBE applicants and make certification recommendations in accordance with the certification procedures and standards of 49 CFR Part 26. After the NJSBDC review, the NJDOT will review the NJSBDC recommendation along with the completed application package and make the final decision regarding certification.

## **26. Procedures for Certification Decisions (Section 26.83)**

### Re-certifications 26.83(a) & (c)

NJDOT will review the eligibility of DBEs every three years to make sure that they continue to meet the standards of Subpart E of Part 26. NJDOT will complete this review no later than three years from the most recent certification date of each firm.

### “No Change” Affidavits and Notices of Change (26.83(j))

NJDOT requires all DBEs to inform it, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with NJDOT’s application for certification.

NJDOT also requires all owners of all DBEs it has certified to submit, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

This no change affidavit is effective for one (1) year from the date of written notice provided there are no changes in the ownership, control and/or operations of the firm.

The undersigned does hereby swear that I am the duly authorized representative of \_\_\_\_\_ (Company Name), holding the position of \_\_\_\_\_ and that the foregoing statements and attachments are true, accurate and complete and include all material information necessary to identify and explain the ownership, control and/or operations of the business. Further, I understand that any

material misrepresentation will be grounds for denial of recertification or decertification and/or grounds for consideration of termination of any contracts which may have been awarded, and possible action under Federal or State law concerning fraud and deception.

I further swear that there has not been a change in the circumstances of my company, which affects its ability to meet the size, disadvantaged status, ownership or control requirements of the federal regulations.

If, after filing this application for recertification, there is any change in ownership or control of this business or in any other information submitted, he/she will notify the Division of Civil Rights/Affirmative Action within 14 calendar days; and he/she understands that failure to do so may result in decertification and/or denial of recertification.

NJDOT requires DBEs to submit with this affidavit documentation of the firm's size and gross receipts.

NJDOT will notify all currently certified DBE firms of these obligations via mail 30 days prior to the anniversary of the most recent certification date of each firm. This notification will inform DBEs that to submit the "no change" affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth), the obligation to submit a notice of change applies.

### **27. Denials of Initial Requests for Certification (Section 26.85)**

If NJDOT denies a firm's application or decertifies it, the firm may not reapply until 12 months have passed from our action.

### **28. Removal of a DBE's Eligibility (Section 26.87)**

In the event NJDOT proposes to remove a DBE's certification, NJDOT will follow procedures consistent with 26.87. Attachment 6 to this program sets forth these procedures in detail.

### **29. Certification Appeals (Section 26.89)**

Any firm or complainant may appeal NJDOT's decision in a certification matter to USDOT. Such appeals may be sent to:

U.S. Department of Transportation  
Departmental Office of Civil Rights  
External Civil Rights Programs Division (S-33)  
1200 New Jersey Ave., S.E.

Washington, DC 20590  
Phone: (202) 366-4754  
TTY: (202) 366-9696  
Fax: (202) 366-5575

NJDOT will promptly implement any USDOT certification appeal decisions affecting the eligibility of DBEs for our USDOT-assisted contracting (e.g., certify a firm if USDOT has determined that our denial of its application was erroneous).

## **SUBPART F – COMPLIANCE AND ENFORCEMENT**

### **30. Noncompliance Complaints (Section 26.103)**

Any person who believes that NJDOT has failed to comply with its obligations under, 49 CFR Part 26 may file a written complaint with the USDOT, FHWA Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the FHWA Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under 49 CFR Part 26 are limited to allegations of violation of the provisions of this part.

### **31. Information, Confidentiality, Cooperation (Section 26.109)**

NJDOT will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Under N.J.S.A. 47:1A-1 et seq. the New Jersey Open Public Records Act (OPRA), government records, with certain exceptions, are required to be readily accessible to the public for inspection, examination, and copying. While limitations on the public's right of access should be decided in the public's favor, a public agency is required to keep a citizen's personal information from public access when that access would violate the citizen's reasonable expectation of privacy.

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.

#### **Monitoring Payments to DBEs**

NJDOT will require prime contractors to submit monthly DBE utilization reports to the Contract Compliance Unit. In addition prime contractors are required to submit a final DBE utilization report upon completion of a project. These reports enable the Contract Compliance Unit to monitor actual payments to DBEs.

## **ATTACHMENTS**

Attachment 1 – New Jersey Department of Transportation Organizational Chart

Attachment 2 – N.J.A.C. 16:44; N.J.A.C. 16:44A

Attachment 3 – New Jersey Department of Transportation, DBE Goal Narrative FFY11

Attachment 4 – DBE Certification Application; DBE Checklist; DBE Instructions

Attachment 5 – New Jersey Unified Certification Program, Standard Operating  
Procedures

Attachment 6 – 49 CFR Part 26

Attachment 7—New Jersey Department of Transportation Jersey Department of  
Transportation, Emerging Small Business Enterprise Policy Statement

Attachment 8—New Jersey Department of Transportation, Division of Local Aid &  
Economic Development, Federal Aid Handbook