

**CHAPTER 44  
CONSTRUCTION SERVICES**

**Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:7-2.1, and 27:7-35.2 et seq.

**Source and Effective Date**

R.1994 d.198, effective March 24, 1994.  
See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 44, Construction Services, expires on March 24, 1999.

**Chapter Historical Note**

Chapter 44, Construction Services, was adopted as Chapter 65 and was filed and became effective prior to September 1, 1969. Amendments became effective December 30, 1971 as R.1971 d.237. See: 4 N.J.R. 29(e). Subchapter 8 became effective July 1, 1976 as R.1976 d.207. See: 8 N.J.R. 309(b), 8 N.J.R. 404(b).

Pursuant to Executive Order No. 66(1978), Chapter 65 was readopted as R.1983 d.409, effective September 6, 1983. See: 15 N.J.R. 1080(b), 15 N.J.R. 1668(b). Effective October 17, 1983, Chapter 65 was recodified as Chapter 44. See: 15 N.J.R. 1772(a).

Pursuant to Executive Order No. 66(1978), Chapter 44 was readopted as R.1988 d.279, effective May 25, 1988. See: 20 N.J.R. 889(a), 20 N.J.R. 1467(a). The Executive Order No. 66(1978) expiration date of Chapter 44 was extended by gubernatorial waiver from May 25, 1993 to May 25, 1994. See: 25 N.J.R. 2227(a). Pursuant to Executive Order No. 66(1978), Chapter 44 was readopted as R.1994 d.198. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. CLASSIFICATION OF CONTRACTORS AND PROSPECTIVE BIDDERS

### 16:44-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Affiliates” means persons having a relationship such that any one of them directly or indirectly controls or has the power to control another.

“Aggregate Rating” means the dollar limit of contract work that a contractor will be allowed to have outstanding at any given time, and includes the dollar value of all work in progress.

“Bond value” means par value or market value of the bond, whichever is lower.

“Classification” means the rating given a contractor that denotes the type of contracts on which the New Jersey Department of Transportation (NJDOT) will allow the contractor to submit bids and the total amount of work which the contractor may undertake.

“Contractor” means an individual, partnership or corporation classified, or requesting classification, to perform work under contract with the department.

“Corporate reorganization” means any change in the structure or organization of a corporation wherein one or more of the following events occur:

1. A change in ownership of more than 5 percent of the stock of the corporation;
2. A transfer of the assets, in whole or in part, from the existing corporation to another or new corporation;
3. Any modification of the corporate name;
4. Any other change, modification, dissolution, transfer of, deletion from or addition to the corporate entity which may affect the operation of the corporation as a contractor; or
5. Any change in operation or function of the corporation, such as a change in classification or industry.

“Current Bid Capacity” means the lesser of a contractor’s Project Rating or Maximum Rating.

“Debarment” means an exclusion from NJDOT contracting, on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

“Disqualification” means a debarment or a suspension which denies or revokes a qualification to bid or otherwise engage in NJDOT contracting which has been granted or applied for pursuant to statute, or rules and regulations.

“Key sheet” means the first sheet of a set of plans containing a location map for the project, usually at a scale of 2000 feet to the inch, a brief description of the project and the necessary approvals.

“Maximum Rating” means the dollar figure established by subtracting the contractor’s current dollar amount of outstanding work from its Aggregate Rating.

“NJDOT contracting” means any arrangement giving rise to an obligation to supply anything to or perform any service for the NJDOT, other than by virtue of State employment, or to supply anything to or perform any service for private or public persons where the NJDOT provides substantial financial assistance or retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

“Person” means any natural person, company, firm, association, corporation, or an entity.

“Plans” means construction plans, supplementary specifications and proposal forms.

“Pre-qualification Committee” means a committee appointed by the Commissioner of Transportation to perform the duties indicated in this chapter. The Committee shall be comprised of five voting members, selected at the discretion of the Commissioner of Transportation. The Manager, Bureau of Construction Services, Procurement Division, shall serve as a non-voting member and Secretary to the committee, and may be granted authority by the Pre-qualification Committee to sign renewal of pre-qualification applications on behalf of the Committee in those circumstances deemed appropriate by the Committee.

“Project Rating” means the maximum dollar amount which a contractor shall be allowed to bid on an individual project.

“Standard Specifications” means the 1983 edition of the book entitled “New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction,” as amended and supplemented.

“Supplementary specifications” means amendments or revisions updating the Standard Specifications.

“Suspension” means an exclusion from NJDOT contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

“Vendor” means any person, firm, corporation or other entity which provides or offers or proposes to provide goods or services to or perform any contract for any State agency.

Amended by R.1977 d.388, effective October 17, 1977.

See: 9 N.J.R. 44(a), 9 N.J.R. 543(b).

Amended by R.1981 d.72, effective March 4, 1981.

See: 13 N.J.R. 108(c), 13 N.J.R. 243(b).

“Director of Financial Management” was “Director of Accounting and Auditing”.

Amended by R.1987 d.499, effective December 7, 1987.

See: 19 N.J.R. 1634(a), 19 N.J.R. 2303(a).

Added definition “pre-qualification committee”.

Amended by R.1989 d.530, effective October 16, 1989.

See: 21 N.J.R. 2240(a), 21 N.J.R. 3314(a).

Established new composition of “Pre-qualification Committee” and reflects title changes due to organizational changes within the Department.

Amended by R.1992 d.29, effective January 6, 1992.

See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

Added new definitions.

Amended by R.1994 d.198, effective April 18, 1994.

See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

#### 16:44-1.2 Statements under oath

(a) All contractors proposing to bid on NJDOT work shall furnish, on forms provided by the Commissioner of Transportation, a Prequalification Questionnaire including, at a minimum, the following statements:

1. A statement as to financial ability, which statement shall show current assets and current liabilities and shall include verifications of unsecured lines of credit extended by banks. The Prequalification Questionnaire must be accompanied by certified audited financial statements or a CPA review of financial statements. The financial statements shall be complete, with a balance sheet, related statements of income and retained earnings and cash flows. The financial statements shall be completed by a certified public accountant or public accountant, as established by N.J.S.A. 45:2B-29 et seq., who is independent of, and not an employee of, the contractor for which the financial statements are being provided;

i. The certified audited financial statements should have an unqualified opinion. The CPA review of financial statements shall be in conformity with generally accepted accounting principles. Both the audited and CPA review financial statements shall be for a full one year accounting cycle;

ii. Submission of a CPA review of financial statements will limit the contractor’s maximum project rating to \$2,000,000. In addition, the aggregate rating will be limited to the total uncompleted work on hand at the time of the classification, plus \$2,000,000;

iii. Submission of a consolidated financial statement is acceptable. It may be submitted with the Prequalification Questionnaire completed in the name of the

parent corporation. A consolidated financial statement submitted with a Prequalification Questionnaire and completed in the name of the subsidiary corporation shall include a separate breakdown of the financial statements, that is, balance sheet, income statement, statement of changes in financial position and cash flows, in the name of the subsidiary corporation;

2. A statement as to plant and equipment, which shall give complete details as to cost, age, condition and book value and outstanding loans;

3. A statement as to organization, which shall show the ability of such organization, including key personnel, to undertake a project in the classification desired;

4. A statement as to prior experience, which shall show the length of time in which the contractor has been engaged in the contracting business. It shall also disclose the nature of the contractor’s experience during that period;

5. A statement which shall give an accurate and complete record of work completed in the previous four years and which shall identify the projects undertaken, type of work performed, location, contract price, name and telephone number of the owner’s engineer in charge;

i. The work record statement shall list, in detail, any liens, stop notices, default notices or claims filed with regard to any project within the previous four years. The work record statement shall also disclose labor troubles experienced, failures to complete contracts and all penalties imposed by reason of any contract undertaken within the previous four years. The contractor shall explain all such items;

6. A statement setting forth any other pertinent and material facts which will justify the classification and rating desired;

7. A statement disclosing any suspension, debarment, or disqualification of the contractor, its parent company or subsidiary and/or any owner, stockholder, officer, partner or employee of the contractor;

8. A statement that the contractor has adopted an Affirmative Action Program for Equal Employment Opportunity in accordance with State and Federal laws, rules and regulations;

9. If the contractor is a corporation or partnership, a statement setting forth the names and addresses of all stockholders or partners owning 10 percent or greater interest in the contractor. If one or more stockholders or partners is, itself, a corporation or partnership, the statement shall also indicate the stockholders holding 10 percent or more of that corporation’s stock or the individual partners owning a 10 percent or greater interest in that partnership. The disclosure shall be continued until the names and addresses of every noncorporate stockholder or partner exceeding the 10 percent ownership criterion has been listed;

10. A prequalification affidavit attesting that all statements contained in the Prequalification Questionnaire are true and accurate; and

11. A statement identifying the types of work for which the contractor is seeking classification.

Amended by R.1977 d.388, effective October 17, 1977.  
 See: 9 N.J.R. 444(a), 9 N.J.R. 543(b).  
 Amended by R.1979 d.223, effective June 6, 1979.  
 See: 11 N.J.R. 262(a), 11 N.J.R. 357(c).  
 Amended by R.1986 d.29, effective February 18, 1986.  
 See: 17 N.J.R. 2746(a), 18 N.J.R. 427(a).  
 Class R amended; Class S through W new.  
 Amended by R.1988 d.175, effective April 18, 1988.  
 See: 20 N.J.R. 380(b), 20 N.J.R. 913(b).  
 Added text to (c) "The types of . . . New Jersey 08625."  
 Amended by R.1989 d.88, effective February 6, 1989.  
 See: 20 N.J.R. 3004(a), 21 N.J.R. 309(a).  
 Subsections (d) and (n) substantially amended.  
 Emergency amendment, R.1989 d.226, effective March 30, 1989, (expires May 29, 1989).  
 See: 21 N.J.R. 1023(a).  
 Changes bidding period from 15 to 18 months.  
 Adopted concurrent proposal, R.1989 d.346, effective July 3, 1989.  
 See: 21 N.J.R. 1023(a), 21 N.J.R. 1833(a).  
 Provisions of emergency amendment R.1989 d.226 readopted without change.  
 Repeal and New Rule, R.1992 d.29, effective January 6, 1992.  
 See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).  
 Section was "Classification of prospective bidders."  
 Amended by R.1994 d.198, effective April 18, 1994.  
 See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**Case Notes**

Supplier to general contractor's state contract would not be precluded from being "subcontractor." *Unadilla Silo Co., Inc. v. Hess Bros., Inc.*, 123 N.J. 268, 586 A.2d 226 (1991).

Decision to reject contractor's bid, where proper schedule was hand-delivered to Department on bid opening date with explanation that schedule omission from bid was inadvertent, remanded to Commissioner to consider waiver of bid deviation in light of public policy favoring awards to lowest possible bidder as long as fair competition in bidding is not impaired (citing former N.J.A.C. 16:65-1.2). *In re Contract for Route 280 Section 7U Exit Project*, 179 N.J.Super. 280, 431 A.2d 848 (App.Div.1981) appeal dismissed 89 N.J. 1, 444 A.2d 51 (1982).

Prospective bidder held not entitled to a detailed recitation of acts and omissions which would support the Commissioner's finding of lack of moral responsibility; bidder held entitled to be forewarned of theory upon which Commissioner was proceeding and a reasonable opportunity to confront assertions against it (citing former N.J.A.C. 16:65-1.2); bidding disqualification reversed due to Commissioner's error in giving determinative weight to proposition that the corporation lacked moral responsibility because of past deeds of individuals no longer associated with it. *Trap Rock Industries, Inc. v. Sagner*, 133 N.J.Super. 99, 335 A.2d 574 (App.Div.1975) affirmed per curiam 69 N.J. 599, 355 A.2d 636 (1976).

**16:44-1.3 Penalties for false statements**

(a) Any person who makes, or causes to be made, a false, deceptive or fraudulent statement in the Prequalification Questionnaire required to be submitted, or in the course of any hearing pertaining to an application for prequalification, shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine of not less than \$100.00, nor more than \$1,000; or in the case of an individual or the officer or employee charged with the duty of making such questionnaire for a person, firm, copartnership, association or corporation, to pay such fine or undergo imprisonment, not to exceed six months, or both.

(b) All such persons and any copartnership, association, corporation, or joint stock company of which any such person is a partner or officer or director, and any corporation of which such person owns 25 percent of the stock, shall, for five years from the date of such conviction, be disqualified from bidding on all public work in this State.

New Rule, R.1992 d.29, effective January 6, 1992.  
 See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).  
 Old section "Requirements" was recodified to 16:44-1.17.  
 Amended by R.1994 d.198, effective April 18, 1994.  
 See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**16:44-1.4 Types of work**

(a) Contractors will be classified according to the type of work and the amount of work on which they may bid.

(b) The types of work for which contractors may seek classification are on file at the Department of Transportation, Bureau of Construction Services, 1035 Parkway Avenue, CN 605, Trenton, New Jersey 08625.

(c) Each contractor will be classified for one or more of the types of work requested by that contractor and will be rated in accordance with its financial ability, adequacy of plant and equipment, organization, record of construction, and any other factors deemed pertinent by the NJDOT. The contractor will be assigned a classification, designating the types and dollar values of work upon which it shall be eligible to bid.

(d) The Commissioner of Transportation will notify a contractor of its classification by first class mail within 15 days of the Department's receipt of a complete Prequalification Questionnaire. If the Department requests from the contractor additional information needed to complete the Prequalification Questionnaire submitted or to clarify information contained in the Prequalification Questionnaire, the contractor will be notified of its classification by first class mail within 15 days of the Department's receipt of the specified information. Any contractor which fails to submit a complete Prequalification Questionnaire, as determined by the Department, will be denied classification.

(e) The dollar rating ranges within which contractors may be entitled to bid are as set forth in Table I below.

**TABLE I**  
 Dollar Rating Ranges

50,001 to 100,000	20,000,001 to 25,000,000
100,001 to 150,000	25,000,001 to 30,000,000
150,001 to 200,000	30,000,001 to 35,000,000
200,001 to 300,000	35,000,001 to 40,000,000
300,001 to 400,000	40,000,001 to 45,000,000
400,001 to 500,000	45,000,001 to 50,000,000
500,001 to 750,000	50,000,001 to 55,000,000
750,001 to 1,000,000	55,000,001 to 60,000,000
1,000,001 to 2,000,000	60,000,001 to 65,000,000
2,000,001 to 3,000,000	65,000,001 to 70,000,000
3,000,001 to 4,000,000	70,000,001 to 75,000,000
4,000,001 to 6,000,000	75,000,001 to 80,000,000

6,000,001 to 8,000,000	80,000,001 to 85,000,000
8,000,001 to 10,000,000	85,000,001 to 90,000,000
10,000,001 to 15,000,000	90,000,001 to 95,000,000
15,000,001 to 20,000,000	95,000,001 to 99,999,999 over 99,999,999

1. A contractor whose statements do not qualify the contractor to bid an amount in the \$50,001 to \$100,000 range will be classified with an Aggregate Rating equal to its calculated capacity.

2. A contractor, qualified to bid in excess of \$99,999,999, will be notified when the Department of Transportation intends to put out for bid a project in the "Unlimited" class. Each such contractor that desires to bid the "Unlimited" class project shall be required to specifically prequalify to bid upon that project. The contractor must apply for such specific classification at least 20 days before the date set for the receipt of bids on the "Unlimited" class project.

New Rule, R.1992 d.29, effective January 6, 1992.

See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

Old section "Effective date of classification" was recodified to 1.18.

Amended by R.1994 d.198, effective April 18, 1994.

See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

#### 16:44-1.5 Classification rating system

(a) Each contractor will be assigned both an Aggregate Rating and a Project Rating. The dollar limits of these ratings will be related to the work type classifications for which the contractor, its officers and key personnel have demonstrated sufficient experience of acceptable quality to be granted a rating.

(b) Aggregate Ratings will be established as follows:

1. The Aggregate Rating will be based on the contractor's net working capital. Net working capital is represented by the excess of current assets over current liabilities and identifies the relatively liquid portion of total enterprise capital which constitutes a margin for meeting obligations within the ordinary operating cycle of the business. A contractor's net working capital can be supplemented by unsecured lines of credit and the net book value of construction equipment. The contractor's allowed assets will be multiplied in accordance with (b)3 below.

2. The Department of Transportation reserves the right to use the contractor's net worth, as shown in the balance sheets, as the basis of the firm's net working capital when review and analysis of the financial transactions undertaken by the contractor so require.

3. The NJDOT will add dollar figures established by use of the multipliers indicated below. For contractors which have not had a NJDOT performance rating within the prior four year period, the resulting figure shall be the contractor's aggregate rated capacity. For contractors which have had a NJDOT performance rating within the prior four year period, the resulting figure will be multi-

plied by the contractor's average performance rating to establish the contractor's aggregate rated capacity.

#### Contractors without NJDOT past performance

Aggregate rated capacity = (Net working capital x 9) + (net book value of equipment x 9) + (unsecured lines of credit x 4).

#### Contractors with NJDOT past performance

Aggregate rated capacity = ((net working capital x 15) + (net book value of equipment x 15) + (unsecured lines of credit x 7)) x the contractor's average past performance rating.

4. A contractor's aggregate rated capacity will be reduced by 15 percent if it neither owns nor leases, on a continuing basis, the equipment necessary to perform the work within its work category.

5. A contractor's Aggregate Rating will be established by application of its aggregate rated capacity to Table I at N.J.A.C. 16:44-1.4(e).

6. A contractor will not be permitted to bid beyond its aggregate rating.

(c) Project Ratings, based on an evaluation of contractor's verifiable work experience and the experience profile of its officers and other key personnel, will be established as follows:

1. When a contractor has performed work for the Department of Transportation and received a performance rating within the previous four years, its Project Rating will be based on its performance rating, as applied in N.J.A.C. 16:44-1.8, for the classification work types associated with the performance rating.

2. When a contractor has never been classified by the Department of Transportation or when a contractor has not received a performance rating from the Department within the previous four years, past work experience and experience of officers and key personnel will be evaluated through the use of work experience verification letters and/or personal contacts. Recently formed contractors, with limited or no work history will be evaluated by the use of detailed individual experience profiles.

New Rule, R.1992 d.29, effective January 6, 1992.

See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

Old section "Notice of classification" was recodified to 1.19.

Amended by R.1994 d.198, effective April 18, 1994.

See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

#### 16:44-1.6 Determination of Project Rating for contractors with verifiable work experience, but no Department of Transportation past performance rating

(a) In order to evaluate the work experience of a contractor, the Department of Transportation will obtain information from public and private owners for whom the contractor has performed work. The information will be reviewed

and evaluated in the manner set forth in Table II, Quality Points, below.

TABLE II  
QUALITY POINTS

Rating	Excellent	Good	Fair	Poor
Quality of Work (Grading, Paving, Bridge, etc.)	1.00	0.80	0.50	0
Completion of Work per Required Schedule	0.50	0.40	0.25	0
Supervision	Used for General Information			
Adequacy of Equipment	Used for General Information			
Supplemental Quality Points (Only A or B Applies)				
A. For work experience determined to be equivalent to NJDOT work (Equivalent work is deemed to be work for other DOT's, U.S. Army Corps of Engineers, New Jersey Turnpike Authority, New Jersey Highway Authority, etc.):				1.00
B. For work experience determined to be similar to NJDOT work (similar work is deemed to be work for County, City, Township, Municipal, or Utility Authorities):				0.50

(b) The average, to the nearest 0.1 point, of the quality points calculated for each individual work evaluation will be multiplied by the dollar value of the largest successfully completed project for which an evaluation was performed and in which the contractor engaged in the work types for which classification is being sought. A contractor's Project Rating will be established by locating the resulting dollar figure on Table I at N.J.A.C. 16:44-1.4(e).

(c) If the contractor's major work program is evaluated to be equivalent in scope and expertise level to that of NJDOT projects and work quality is evaluated to be good or excellent, the contractor's Project Rating will be set equal to its Aggregate Rating, up to \$99,999,999.

(d) In no event shall a contractor's Project Rating be allowed to exceed its Aggregate Rating.

New Rule, R.1992 d.29, effective January 6, 1992.

See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

Old section "Equal employment opportunity" was recodified to 1.20.

#### 16:44-1.7 Determination of Project Rating for newly formed contractors

(a) A contractor without any verifiable past contracting work experience or a contractor with limited or no work experience of the type required for the classification being sought will be evaluated on the basis of detailed individual experience resumes. Officers and key personnel must submit individual experience resumes detailing those experiences applicable to the work type classifications for which the contractor is applying.

(b) Upon verification of acceptable work experience, the Department of Transportation will grant a Project Rating corresponding to the level and quality of past experience demonstrated by the officers and key personnel of the contractor. If the key personnel to be evaluated are not officers or stockholders of the contractor, the contractor shall submit an affidavit, stating that these individuals are currently full-time employees of the contractor and that the contractor will immediately notify the NJDOT of any change in their employment status. Upon notification of a change in the employment of key personnel, the NJDOT may reevaluate the contractor's classification.

(c) In no event shall a contractor's Project Rating be allowed to exceed its Aggregate Rating.

New Rule, R.1992 d.29, effective January 6, 1992.

See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

Old section "Wage rate administration" was recodified to 1.21.

#### 16:44-1.8 Renewal of classification ratings

(a) Upon renewal of classification, a contractor's Aggregate Rating will be established in accordance with the procedure set forth in N.J.A.C. 16:44-1.5.

(b) Upon renewal of classification, contractors without a NJDOT past performance rating within the previous four years will be evaluated on the basis of the information and in accordance with the procedures described in N.J.A.C. 16:44-1.6 and/or 1.7.

(c) Upon renewal of classification, contractors with a NJDOT past performance rating within the previous four years will be evaluated on the basis of their average performance rating and a Project Rating will be established in the following manner:

1. If a contractor's average performance rating does not meet the criteria of (c)2, 3, or 4 below, the contractor's average past performance rating will be multiplied by a dollar level equal to three times the largest successfully completed NJDOT or similar contract performed during the prior four years. The contractor's Project Rating will be determined by applying the resulting dollar figure to Table I at N.J.A.C. 16:44-1.4(e).

2. If a contractor's average performance rating is 15 points or more below the average performance rating of all contractors that have received a NJDOT performance rating within the previous four years, the Department of Transportation may, in the public interest, determine to deny the contractor classification or assign a limited Project Rating instead of assigning a Project Rating pursuant to N.J.A.C. 16:44-1.8. If denied classification or assigned a limited project rating, the contractor will be accorded a hearing pursuant to N.J.A.C. 16:44-1.16.

**16:44-1.17 Appeals and enforcement**

(a) A contractor dissatisfied with its classification may request a hearing before the Prequalification Committee and at the hearing may present further evidence to justify a different classification. A change in classification will only be effective for an advertised project if the contractor has provided to the Prequalification Committee all information necessary to support the change request at least 15 days prior to the date on which bids are received.

(b) Except where specifically and expressly permitted, no deviation from this subchapter will be allowed.

New Rule, R.1992 d.29, effective January 6, 1992.  
See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).  
Recodified from 16:44-1.16 by R.1994 d.198, effective April 18, 1994.  
See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**16:44-1.18 Requirements**

(a) The Bureau of Construction Services will provide a Prequalification Questionnaire and Past Performance Record (Form DC 74A) to any contractor that desires to be classified to perform work for NJDOT under contract.

(b) Completed questionnaires shall be submitted to the Bureau of Construction Services.

Recodified from 16:44-1.3, R.1992 d.29, effective January 6, 1992.  
See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).  
Recodified from 16:44-1.17 and amended by R.1994 d.198, effective April 18, 1994.  
See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).  
Former text at 16:44-1.18, Effective date of classification, repealed.  
Prior revisions to that text:  
Amended by R.1980 d.108, eff. March 14, 1980.  
See: 12 N.J.R. 94(a), 12 N.J.R. 214(a).  
Emergency amendment, effective March 30, 1989, (expires May 29, 1989).  
See: 21 N.J.R. 1023(a).  
Expiration date changed from 15 to 18 months.  
Adopted concurrent proposal, R.1989 d.346, effective July 3, 1989.  
See: 21 N.J.R. 1023(a), 21 N.J.R. 1833(a).  
Provisions of emergency amendment R.1989 d.226 readopted without change.  
Recodified from 16:44-1.4, R.1992 d.29, effective January 6, 1992.  
See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

**16:44-1.19 Notice of classification**

A "Notice of Classification" form shall be prepared in triplicate by the Bureau of Construction Services. The original shall be signed and mailed to the applicant by First Class mail.

Recodified from 16:44-1.5, R.1992 d.29, effective January 6, 1992.  
See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).  
Amended by R.1994 d.198, effective April 18, 1994.  
See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**16:44-1.20 Equal employment opportunity****Authority**

N.J.S.A. 18:25-1 and Executive Order No. 21 dated June 24, 1965.  
Recodified from 16:44-1.6, R.1992 d.29, effective January 6, 1992.  
See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

**16:44-1.21 Wage rate administration****Authority**

N.J.S.A. 40:32-3.  
Recodified from 16:44-1.7, R.1992 d.29, effective January 6, 1992.  
See: 23 N.J.R. 3270(a), 24 N.J.R. 115(c).

**SUBCHAPTER 2. DISTRIBUTION OF STANDARD SPECIFICATIONS****16:44-2.1 Requirements**

(a) The Bureau of Construction Services shall:

1. Distribute copies of "Standard Specifications"; and
2. Establish a reasonable selling price for the current "Standard Specifications."

(b) Approval of the Assistant Commissioner of Design and Right-of-Way or designee is required for nondepartmental distribution without charge.

Amended by R.1975 d.195, effective July 2, 1975.  
See: 7 N.J.R. 279(a), 7 N.J.R. 387(a).  
Recodified from 16:44-2.2 and amended by R.1994 d.198, effective April 18, 1994.  
See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).  
Former text at 16:44-2.1, Definition, repealed. Previously amended by R.1975 d.195. See: 7 N.J.R. 387(a).

**16:44-2.2 Distribution of free copies**

(a) The Bureau of Construction Services is authorized to distribute "Standard Specifications" upon revision and re-printing, without charge, to the following:

1. New Jersey county engineer's office (one copy each);
2. Chief engineer of other state transportation departments (one copy);
3. American Association of State Highway and Transportation officials (three copies);
4. Each successful bidder may receive one free copy upon request, upon award of the contract; provided that not more than one copy of the current "Standard Specifications" will be furnished to any contractor, regardless of its number of awarded contracts, except upon payment of the established selling price per copy.

(b) No other free copies shall be provided. The Assistant Commissioner of Design and Right-of-Way or designee may, however, make exceptions to this rule on a case-by-case basis.

Amended by R.1975 d.195, effective July 2, 1975.  
See: 7 N.J.R. 279(a), 7 N.J.R. 387(a).  
Recodified from 16:44-2.3 and amended by R.1994 d.198, effective April 18, 1994.  
See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**16:44-2.3 (Reserved)**

**16:44-2.4 (Reserved)**

Amended by R.1975 d.195, effective July 2, 1975.  
 See: 7 N.J.R. 279(a), 7 N.J.R. 387(a).  
 Repealed by R.1994 d.198, effective April 18, 1994.  
 See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).  
 Section was "Excerpts".

**SUBCHAPTER 3. DISTRIBUTION AND SALE OF CONSTRUCTION PLANS AND SUPPLEMENTARY SPECIFICATIONS**

**16:44-3.1 Requirements**

(a) Sets of construction plans shall be serially numbered by the supplier prior to delivery to the Department.

(b) Sets of supplementary specifications shall be consecutively numbered by the respective originating bureau, division, or unit, prior to issuance.

(c) Sets of construction plans and supplementary specifications sold by Regional Offices which are reproduced from microfilm shall not be numbered.

(d) A charge shall be made for each set of black line plans and supplemental specifications pursuant to requests from outside of the NJDOT in accordance with the following, except as otherwise authorized herein:

1. Plans and supplemental specifications will be furnished upon request at a charge in accordance with reasonable copying expenses.
2. For the key sheets, supplementary specifications and any other pertinent documents in instances where the advertised work does not require construction plans: \$10.00.
3. Supplementary specifications unaccompanied by construction plans: \$5.00.
4. For individual sheets of a set of plans, a charge of \$1.00 per sheet will be imposed but the total charge for request for individual sheets will not exceed the scheduled price for a complete set of black line prints as set forth in (d)1 above.
5. If copies of the supplementary specifications are not available subsequent to the award of the contract, photocopies shall be made at first to tenth page, \$.50 per page; eleventh to twentieth page, \$.25 per page; and all pages over 20, \$.10 per page.

(e) Requests from outside the NJDOT for distribution of plans, or for any portion thereof, or for any individual sheet or sheets therefrom, shall be honored during the advertised period. However, distribution under such requests will only be made after one of the following:

1. The Department cashier has furnished a receipt indicating that the proper remittance has been submitted; or

2. The purchaser has indicated that delivery of the plans and supplementary specifications will be accepted on a C.O.D. basis;

3. Individual sheets, therefrom, can only be made available after the project has been bid.

Amended by R.1978 d.164, effective May 22, 1978.  
 See: 10 N.J.R. 171(d), 10 N.J.R. 264(a).  
 Amended by R.1979 d.388, effective October 1, 1979.  
 See: 11 N.J.R. 409(c), 11 N.J.R. 588(b).  
 Amended by R.1984 d.70, effective March 19, 1984.  
 See: 15 N.J.R. 1930(a), 16 N.J.R. 554(a).  
 This rule was recently recodified from 16:65. See the October 17, 1983 Register at 15 N.J.R. 1772(a).  
 Amended by R.1985 d.6, effective February 4, 1985.  
 See: 16 N.J.R. 2515(a), 17 N.J.R. 319(a).  
 Delete (f).  
 Amended by R.1987 d.218, effective May 18, 1987.  
 See: 19 N.J.R. 181(b), 19 N.J.R. 883(a).  
 Deleted (d)1 and chart and inserted (d)1 "Plans and supplemental ..."  
 Amended by R.1990 d.500, effective October 15, 1990.  
 See: 22 N.J.R. 2247(a), 22 N.J.R. 3238(a).  
 Fees increased at (d).  
 Recodified from 16:44-3.2 by R.1994 d.198, effective April 18, 1994.  
 See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).  
 Former text at 16:44-3.1, Definitions, repealed. Previously amended by R.1979 d.388 and R.1990 d.500. See: 11 N.J.R. 588(b) and 22 N.J.R. 3238(a).

**16:44-3.2 Requisitioning of plans**

Requests for plans should be sent to the Bureau of Construction Services, Division of Procurement, New Jersey Department of Transportation, CN605, 1035 Parkway Avenue, Trenton, New Jersey 08625-0605.

Amended by R.1978 d.164, effective May 22, 1978.  
 See: 10 N.J.R. 171(d), 10 N.J.R. 264(a).  
 Amended by R.1990 d.500, effective October 15, 1990.  
 See: 22 N.J.R. 2247(a), 22 N.J.R. 3238(a).  
 Administrative change reflected.  
 Recodified from 16:44-3.3 and amended by R.1994 d.198, effective April 18, 1994.  
 See: 25 N.J.R. 4727(a), 26 N.J.R. 1690(b).

**16:44-3.3 Nondepartmental distribution and sale**

(a) The Bureau of Construction Services shall issue plans and supplementary specifications in the quantities indicated without cost to the following:

1. The successful low bidder will receive copies of plans specified below and five additional free copies of supplementary specifications, without charge, upon award of the contract if requested.

TABLE OF PLANS FURNISHED WITHOUT CHARGE

From More Than	To And Including	Sets Of Plans Furnished
0	500,000	1
500,000	1,000,000	2
1,000,000	5,000,000	3
5,000,000	10,000,000	4
10,000,000	—	5