

## CHAPTER 14

MINORITY AND FEMALE CONTRACTOR AND  
SUBCONTRACTOR PARTICIPATION IN  
STATE CONSTRUCTION CONTRACTS

## Authority

N.J.S.A. 52:18A-30(d), 52:25, 52:34-6 et seq., 52:32-17 et seq.,  
52:27H-6(f), 52:34-12, 10:5-36(k) and (o), 52:34-13, and  
Executive Order No. 84(1993).

## Source and Effective Date

R.1995 d.225, effective March 30, 1995.  
See: 27 N.J.R. 54(a), 27 N.J.R. 1814(a).

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

Chapter 14, Minority and Female Contractor and Subcontractor  
Participation in State Construction Contracts, expires on March 30,  
1998.

## Chapter Historical Note

Chapter 14, Minority and Female Contractor and Subcontractor  
Participation in State Construction Contracts, was adopted jointly with  
the Department of Commerce, Energy and Economic Development as  
a part of Emergency R.1989 d.481, effective August 14, 1989 (expired  
October 13, 1989). Adopted concurrent new rules were filed on  
October 13, 1989 as R.1989 d.554. 21 N.J.R. 2810(a), 21 N.J.R. 3545(b).

Subchapter 1, formerly Minority and Female Subcontractor Partic-  
ipation in State Construction Contracts, was redesignated as Purpose,  
Scope and Definitions by R.1994 d.310, effective January 3, 1995. See:  
25 N.J.R. 4461(b), 27 N.J.R. 135(a). Subchapters 2, 3, 4 and 5 were  
adopted as R.1994 d.310, effective January 3, 1995. See: 25 N.J.R.  
4461(b), 27 N.J.R. 135(a).

Pursuant to gubernatorial waiver, the Executive Order No. 66(1978)  
expiration date of Chapter 14 was extended from October 13, 1994 to  
March 31, 1995. See: 26 N.J.R. 4411(a). Pursuant to Executive Order  
No. 66(1978), Chapter 14 was readopted as R.1995 d.225. See: Source  
and Effective Date. See, also, section annotations.

## Cross References

Minority and female business participation in department of trans-  
portation construction contracts, see N.J.A.C. 16:4.

Urban Development Corporation, women-owned and minority-  
owned businesses, compliance with rules under this chapter for projects  
receiving financial assistance from the Corporation, see N.J.A.C.  
12A:80-1.7.

## Law Review and Journal Commentaries

Battle for state contracts: What process is due in a challenge to a  
state contract award? Patrick D. Kennedy & Maeve E. Cannon, 180  
N.J.Law. 16 (Mag.) (Oct./Nov. 1996).

## CHAPTER TABLE OF CONTENTS

## SUBCHAPTER 1. PURPOSE, SCOPE AND DEFINITIONS

- 17:14-1.1 Purpose and scope
- 17:14-1.2 Definitions
- 17:14-1.3 through 17:14-1.12 (Reserved)

SUBCHAPTER 2. ELIGIBILITY REQUIREMENTS FOR  
MINORITY AND FEMALE BUSINESSES

- 17:14-2.1 Standards of eligibility for minority businesses and female  
businesses
- 17:14-2.2 Obligation to provide information and penalties for failure  
to provide complete and accurate information
- 17:14-2.3 Right to hearing upon denial of contract

SUBCHAPTER 3. CERTIFICATION AND  
REGISTRATION

- 17:14-3.1 Certification and registration procedures for minority busi-  
nesses and female businesses
- 17:14-3.2 Time for application to register as a minority business or  
female business
- 17:14-3.3 Procedures for challenging a business registered as a minor-  
ity business or female business

SUBCHAPTER 4. STATE AGENCY SET-ASIDE  
CONTRACTING AND SUBCONTRACTING  
PROGRAMS

- 17:14-4.1 Remedial set-aside program goals and procedures
- 17:14-4.2 Non-remedial subcontracting target program and proce-  
dures
- 17:14-4.3 Good faith efforts of bidders; requirements
- 17:14-4.4 Exemptions from set-aside programs

SUBCHAPTER 5. PLANNING, REPORTING AND  
REVIEW

- 17:14-5.1 Planning
- 17:14-5.2 Reporting requirements
- 17:14-5.3 Annual review

SUBCHAPTER 1. PURPOSE, SCOPE AND  
DEFINITIONS

## 17:14-1.1 Purpose and scope

(a) The rules in this chapter are jointly promulgated by  
the Department of Commerce and Economic Development  
(hereinafter, "Department of Commerce") and the Depart-  
ment of the Treasury to implement N.J.S.A. 52:32-17 et seq.  
and Executive Order No. 84, dated March 5, 1993, to  
establish a set-aside program that requires State agencies  
with contracting authority to make a good faith effort to  
award seven percent of public construction contracts and  
subcontracts to eligible minority-owned businesses and three  
percent of public construction contracts and subcontracts to  
eligible female-owned businesses. These percentage goals  
are overall program goals for each State contracting agency.  
State contracting agencies are expected to apply their busi-  
ness judgment when establishing set-aside subcontracting  
goals for individual contracts.

(b) These rules apply only to State construction contracts  
awarded by any State contracting agency and are not appli-  
cable to the award of State contracts for the purchase of  
goods and services not related to construction contracts.

(c) Applications and questions regarding eligibility as a minority business or female business should be addressed to:

Set-Aside and Certification Office  
 Department of Commerce and Economic Development  
 20 West State Street, CN 835  
 Trenton, New Jersey 08625-0835

New Rule, R.1994 d.310, effective January 3, 1995.  
 See: 25 N.J.R. 4461(b), 27 N.J.R. 135(a).

### 17:14-1.2 Definitions

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

“Certification” means that a minority-owned or woman-owned business has been authenticated as being at least 51 percent owned and controlled either by minorities or females for participation in State programs requiring certification, as judged and determined by the Set-aside and Certification Office of the Department of Commerce and Economic Development.

“Commissioner” means the Commissioner of the Department of Commerce and Economic Development or his or her designee.

“Construction contract” means any contract to which the State or any State contracting agency is a party involving any construction, renovation, reconstruction, rehabilitation, alteration, conversion, extension, demolition, repair or other changes or improvements of any kind whatsoever of any public structure or facility or highway. The term also includes contracts for consultant services, the supervision, inspection and other functions incidental to actual construction.

“Consultant” means an architect, engineer, construction manager, or other consultant providing technical and professional services in support of a design or construction or highway project.

“Contractor” means any party performing or offering to perform a construction contract or consultant contract, or any party providing materials or goods used to perform a construction contract issued by a contracting agency of the State of New Jersey.

“Delegated purchasing authority” means the authority of a State agency to award contracts on its own pursuant to authority delegated to it by the Director, Division of Building and Construction, as established in N.J.S.A. 52:34-7.

“Division of Building and Construction” means the State agency within the Department of the Treasury which provides a centralized design and construction contract procurement and administration service for other State agencies pursuant to N.J.S.A. 52:18A-151 et seq.

“Female business” means a business which has its principal place of business in the State, is independently owned and operated and is at least 51 percent owned and controlled by women.

“Minority business” means a business which has its principal place of business in the State, is independently owned and operated and is at least 51 percent owned and controlled by persons who are African Americans, Latinos or Asian Americans, defined as follows:

1. African American: a person having origins in any of the black racial groups of Africa.
2. Latino: a person of Mexican, Puerto Rican, Cuban, Central or South American, Caribbean Island or other Spanish culture or origin, regardless of race.
3. Asian American: a person having origins in any of the original people of the Far East, southeast Asia, and Indian subcontinent, Hawaii or the Pacific Islands.

“Non-remedial targets” means numerical objectives which a State contracting agency may establish in lieu of or as a supplement to the remedial goals to ensure that discrimination is not presently occurring on publicly funded construction projects.

“Registration” means the process by which any business can have its eligibility for participation in minority and female set-aside determined.

“Remedial goals” means the statutorily determined percentages of contracts awarded by each State contracting agency to eligible minority and female businesses in order to eradicate the effects of past discrimination.

“Set-aside contract” means a contract, or subcontractable portion of a contract when that portion is so allocated, specifically designated by a contracting agency as exclusively available for award to either an eligible minority or female business.

“State contracting agency” means any board, commission, committee, authority or agency of the State which possesses the legal authority to award and make construction contracts and includes the following except where expressly inconsistent with statutory authority:

#### 1. DEPARTMENTS

Agriculture  
 Banking  
 Commerce and Economic Development  
 Community Affairs  
 Corrections  
 Education  
 Environmental Protection  
 Health  
 Higher Education

**Human Services**

**Insurance**

**Labor**

**Law and Public Safety**