

REQUEST FOR PROPOSALS

for

INDEPENDENT AUDITOR SERVICES

for the

BOARD OF DIRECTORS

of the

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

{A Component Unit of the State of New Jersey}

CONTRACT NO. GP-0143-R01

ISSUE DATE: JULY 10, 2009

**MANDATORY ELECTRONIC NOTICE OF INTENT TO PARTICIPATE
DUE NO LATER THAN 5:00 PM, JULY 20, 2009**

{See Page 1 within, for details}

DUE DATE: AUGUST 7, 2009

at the

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

{See Section 2.0, within, for delivery addresses}

PREPARED BY

THE NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS
1 WEST STATE STREET
P.O. BOX 991
TRENTON, NEW JERSEY 08625-0991

**REQUEST FOR PROPOSALS
FOR INDEPENDENT AUDITOR SERVICES
PROPOSAL PACKAGE**

INTRODUCTION

Pursuant to Governor James E. McGreevey's Executive Order No. 122 ("EO 122"), effective on July 23, 2004, and Governor Jon S. Corzine's Executive Order No. 37 ("EO 37"), effective on September 26, 2006, the Board of Directors ("Board") of the New Jersey Schools Development Authority ("Authority" or "NJSDA"), by and through the Board's Audit Committee ("Audit Committee"), seeks to engage a qualified Public Accounting firm (a "Consultant"), registered with the Public Company Accounting Oversight Board ("PCAOB"), to provide independent auditor services. The NJSDA was established on August 6, 2007 to replace the New Jersey Schools Construction Corporation ("SCC") pursuant to reform legislation (P.L. 2007, c.137) enacted by Governor Jon S. Corzine. As of the date of the legislation, the SCC was dissolved and all its functions, powers, duties and employees were transferred to the NJSDA. Organizationally, the Authority is situated in, but not of, the New Jersey Department of the Treasury. The firm selected as the Consultant shall be required to perform a financial statement audit in compliance with generally accepted government auditing standards ("GAGAS"), standards promulgated PCAOB, Government Accounting Standards Board ("GASB") and Financial Accounting Standards Board ("FASB"), and with all applicable Federal and State laws, rules, regulations and standards, as well as professional standards and requirements mandated by the American Institute of Certified Public Accountants ("AICPA"). These services shall be required with respect to the Authority's financial statements for its (calendar) fiscal years ending December 31, 2009, 2010 and 2011, with an option, exercisable solely by the NJSDA, for two one-year renewals covering the fiscal years ending December 31, 2012 and 2013. As provided in EO 122, the Consultant shall be responsible for: publicly attesting to the fairness of the Authority's financial statements; considering the effectiveness of internal controls as a basis for designing audit procedures and; through the issuance of management letters, making comments and recommendations which, when implemented, would improve the design or operation of internal control systems.

This REQUEST FOR PROPOSALS PACKAGE consists of the following items:

1. Request for Proposals
2. Attachment A: Independent Auditor Services Agreement
3. Attachment B: Proposal Forms
4. Attachment C: Fee Proposal Forms
5. Attachment D: Moral Integrity Questionnaire
6. Attachment E: Executive Order No. 122
7. Attachment F: Executive Order No. 37
8. Attachment G: NJSDA 2008 Annual Report
9. Attachment H: Chapter 51 Forms

These documents must be read in their entirety as they define the scope of services and responsibilities of the Consultant and the NJSDA. General information about the School Construction Program can be found at the NJSDA web site, <http://www.njsda.gov>.

NJSDA shall not hold a traditional pre-proposal conference for this procurement. All firms wishing to submit a proposal must sign in electronically by sending a mandatory e-mail Notice of Intent to Participate to Megan Cox at mcox@njsda.gov, no later than 5:00 PM Eastern Time on Monday, July 20, 2009.

Firms may submit questions to NJSDA by sending them by e-mail to Megan Cox at mcox@njsda.gov, no later than **5:00 PM Eastern Time on Monday, July 20, 2009**. The questions and answers shall be provided electronically to each firm that submitted a timely e-mail Notice of Intent to Participate.

**PROPOSALS ARE DUE ON AUGUST 7, 2009
NO LATER THAN 5:00 PM AT THE
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**
{See Section 2.0, within, for delivery addresses}

Interviews (if necessary) with shortlisted firms that must include, at a minimum, all Key Team Members listed in the proposal are tentatively scheduled for **Thursday, August 27, 2009** at the NJSDA Main Office, 1 West State Street, Trenton, NJ 08625. Interview times to be determined.

Upon award, the NJSDA shall forward the Independent Auditor Services Agreement (the "Agreement") to the selected firm(s) for immediate execution, **without modification**.

1.0 BACKGROUND

1.1 The School Construction Program

The School Construction Program is the largest public construction program undertaken by the State of New Jersey ("State") and represents one of the largest school construction programs ever undertaken in the nation. The program was initiated in response to the New Jersey Supreme Court's decision in Raymond Abbott et al. v. Fred G. Burke, 153 N.J. 480 (1998), which eventually led to the Legislature's adoption of the Educational Facilities Construction and Financing Act, P.L.2000, c.72 ("EFCFA") on July 18, 2000. That decision required the State to provide certain educational infrastructure improvements in 31 poor, urban school districts now referred to as the NJSDA Districts (formerly known as the "Abbott Districts"). The EFCFA, as amended in P.L.2008, c.39, provides for an aggregate \$12.5 billion principal amount of bond proceeds to be issued by the New Jersey Economic Development Authority, the financing agent for the School Construction Program, and transferred to the Authority. Of this amount, \$8.9 billion is allocated to the NJSDA Districts, \$3.45 billion is for non-NJSDA districts ("Regular Operating Districts"), and \$150 million is for vocational schools.

NJSDA does not have an economic interest in any school facility project. With the exception of interest income on invested funds, the NJSDA does not generate substantial operating revenues, yet it incurs significant operating expenses to administer the School Construction Program. Through May 31, 2009, NJSDA has received \$7.546 billion of the designated \$12.5 billion principal amount of bond proceeds authorized for the School Construction Program. Also, as of that date, approximately \$7.540 billion has been expended to finance both school facilities projects and NJSDA's operating expenses. In June 2009, the NJSDA received an additional \$400 million principal amount of bond proceeds.

The NJSDA currently has 19 active construction projects in NJSDA Districts, in addition to 3 active Demonstration projects in NJSDA Districts and 8 active projects in Regular Operating Districts, all in construction. Overall, the NJSDA has completed 604 projects: 46 new schools; 41 extensive additions, renovations and/or rehabilitations; 21 other rehabilitation projects; 354 health and safety projects; 127 NJSDA District grant projects; and 3 Demonstration projects in NJSDA Districts. In addition, 19 Regular Operating District projects managed by the NJSDA have been completed. The NJSDA has also distributed \$2.2 billion in grants, impacting more than 1,400 Regular Operating District schools statewide.

BOARD OF DIRECTORS
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
Independent Auditor Services RFP

For a comprehensive overview of NJSDA's operations, accomplishments and the 2008 Capital Plan, see the 2008 Annual Report (Attachment G to this RFP).

1.2 The Importance of Independent Auditor Services

As stated in EO 122 (Attachment E to this RFP), public authorities, agencies and commissions of the State of New Jersey, such as the NJSDA oversee billions of dollars in public funds, and an independent auditing process is fundamental to the ability of these entities to oversee public funds, to set appropriate financial policies, to ensure that management maintains effective internal controls and to ensure that financial statements are free from material misstatements.

1.3 Scope of Services

The required Scope of Services is attached as Appendix B to the Agreement (Attachment A to this RFP).

1.4 Other Requirements of the Consultant

No NJSDA prequalification is required for this procurement. Firms must however, be registered with the PCAOB. In addition, as provided in Section 2.5 below, in its Proposal a firm must set forth a resume of each proposed Key Team Member. At a minimum, each Team must include Key Team Members having the experience and technical expertise necessary to comply with the requirements of EO 122. Thus, on the Key Team Member resume forms (NJSDA Form 202), the firm must set forth all of the licenses, registrations, certifications, and other qualifications of any kind, State, Federal, or private, that are necessary for the provision of all of the services required pursuant to this RFP.

At the time of execution of the Agreement, a successful firm shall be required to provide evidence of the insurance coverage required in Section 5.1 of the Agreement.

2.0 INSTRUCTIONS FOR SUBMITTING A PROPOSAL

A firm must become thoroughly familiar with this RFP to ensure responsiveness in its Proposal. The Proposal must consist of the following:

- 2.1 Cover letter
- 2.2 Firm Experience - Case Studies
- 2.3 Key Team Member List (NJSDA Form 201)
- 2.4 Organization Chart
- 2.5 Resumes of Key Team Members (NJSDA Form 202)
- 2.6 Approach
- 2.7 Control of Budget
- 2.8 Control of Schedule
- 2.9 Firm's Proposal for SBE Set-Aside Targets
- 2.10 Business Registration
- 2.11 Political Contributions (Award Requirement)

All of the above items must be addressed in each Proposal submitted and must follow the order of all questions as posed, and must not exceed forty (40) one-sided 8.5" X 11" pages. Organizational charts, staffing structure, and schedules may be on larger paper. The following items will not count toward the page limits: resumes, required forms, and section dividers.

Each Proposal shall be ranked pursuant to the application of the evaluation criteria listed in this RFP to the material in the Proposal and such verification thereof as may be necessary.

In addition, at the same time as the Proposal is submitted, firms must also submit to the NJSDA **one (1)** original (and no copies) of a completed questionnaire for submission to the New Jersey State Police (hereinafter the “**Moral Integrity Questionnaire**”), in the form set forth as Attachment D to this RFP. **Note, only the proposing firm must complete the Moral Integrity Questionnaire. Subcontractors and/or subconsultants, if utilized, need not complete the Moral Integrity Questionnaire.** The NJSDA Board shall hold all Moral Integrity Questionnaires submitted, unopened, until all firms are ranked, unless special circumstances warrant otherwise. At such time, staff will forward the Moral Integrity Questionnaire of the top-ranked firms to the New Jersey State Police for review.

Note well: Moral integrity approval, pursuant to New Jersey State Police review, is required for award.

Proposal Package Mailing Instructions The firm must submit one (1) unbound original and three (3) bound copies of a Proposal and one (1) original of the corresponding Fee Proposal (in a separate envelope, which is sealed and then placed in the same package with the Proposal), and one original, completed Moral Integrity Questionnaire (in a sealed envelope separate from the package containing the Technical and Fee Proposal) no later than **5:00 PM, August 7, 2009**, as follows:

If submitting by hand or overnight delivery, at the:

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
EVALUATION COMMITTEE
1 West State Street – 1st Floor
Trenton, New Jersey 08608-1205**
**Attention: NJSDA Audit Evaluation Committee
c/o Megan Cox, Senior Procurement Analyst**
Subject: Independent Auditor Services GP-0143-R01

If submitting by U.S. Mail, address packages to:

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
EVALUATION COMMITTEE
P.O. Box 991
Trenton, New Jersey 08625-0991**
**Attention: NJSDA Audit Evaluation Committee
c/o Megan Cox, Senior Procurement Analyst**
Subject: Independent Auditor Services GP-0143-R01

Submissions received after the above date and time will not be considered.

Faxed or e-mailed Proposals shall not be accepted.

Any firm wishing to submit a Proposal must submit a timely electronic notice of intent to participate, as provided in the Introduction, above.

BOARD OF DIRECTORS
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
Independent Auditor Services RFP

A more detailed description of the items required in the Proposal follows.

2.1 Cover Letter

Present a brief understanding of the NJSDA's needs based upon the information provided in the Scope of Services set forth in Appendix B of the Agreement (Attachment A to this RFP). Include in the cover letter any other information relevant to the firm's qualifications, not addressed elsewhere. **Firms must not include any fee information in the cover letter or elsewhere in the Proposal.**

2.2 Firm Experience - Case Studies

Firm experience shall be assessed through a brief summary of the firm's general relevant experience, and **three (3) specific case studies**. Firm experience, for purposes of this Section 2.2, may include the experience of a subconsultant of the proposing firm, provided that such subconsultant is: (i) proposed as a Key Team Member, (ii) duly identified on the Key Team Member List (NJSDA Form 201), and (iii) committed to provide services representing at least 25% of the value of the contract addressed in this RFP. Firms must provide three (3) case studies of prior independent auditor services provided to governmental entities similar in size, scope and complexity to that of the NJSDA (See Attachment F to this RFP for details on the NJSDA). **At least one (1) of the case studies must describe a governmental-based audit engagement in New Jersey.** Each case study must concisely set forth the basic background information (e.g., dates and locations), and the means and methods utilized to conduct the audit. In each case study, the firm must identify the name and address of the governmental audit client and the name, title and telephone number of a contact person associated with the client entity who is familiar with and able to comment on the firm's performance. **Additionally, the Firm Experience must also demonstrate the bidder's familiarity with Federal and State Laws, Rules and Regulations with respect to Governmental Audits.** The brief summary must be approximately 500 words or less, and the narrative for each case study, approximately 1,000 words or less. **A copy of the complete set of financial statements including, but not limited to, the independent auditor's report, management's discussion and analysis, financial statements and accompanying notes to the financial statements must be provided for each case study.**

2.3 Key Team Members List

In this section of its Proposal, a proposing firm must set forth a list of proposed Key Team Members, using NJSDA Form 201 (included in Attachment B to this RFP). For the purposes of this engagement, a "Key Team Member" is a principal, partner or officer of the firm, project executive, project manager, or project controls person (e.g., scheduler, compliance officer), or the like, presented in the Proposal who shall be responsible for a role in the services to be rendered. Each Key Team Member will generally spend 20% or more of his/her time engaged in providing the Services. Where indicated on NJSDA Form 201, one Key Team Member must be identified as the "Project Manager," who shall be engaged full-time in providing the required services.

2.4 Organization Chart

Firms must provide here an organization chart that includes all of the proposed Key Team Members, their titles for the engagement and the firm they represent. In the event the proposing firm is a "joint venture" or subcontracted firms are utilized, the proposing firm must indicate from which participating firm each Key Team Member originates.

2.5 Resumes of Key Team Members

In this section of its Proposal, a firm must include a fully completed resume form for each proposed Key Team Member, using NJSDA Form 202 (included in Attachment B to this RFP). **It is on this form that a firm must set forth all of the licenses, registrations, certifications, and other qualifications of any kind, State, Federal, or private, that are necessary for the provision of all of the services required pursuant to this RFP.** A selected firm shall be required to use all Key Team Members as indicated in its Proposal. Failure to do so without the prior written approval of the NJSDA may result in termination.

2.6 Approach

Firms must set forth in detail their approach to providing the services listed in the Scope of Services.

2.7 Control of Budget

Explain the firm's approach to estimating the cost of providing the required services and describe any proposed cost-control and cost-tracking tools.

2.8 Control of Schedule

Describe any scheduling tools that will be used in the performance of the required services, and explain any techniques the firm plans to use to meet schedules.

2.9 Firm's Proposal for SBE Set-Aside Targets

In this section of its Proposal, a firm must provide a narrative explaining its proposed approach to meeting the overall 25% SBE set-aside target established in N.J.A.C. 12A:10-1.1 et seq., and in Executive Order No. 71 (2003). The NJSDA may only recognize firms duly registered with the New Jersey Office of Economic Growth as SBEs. There are three categories of SBE for purposes of goods and services contracts:

- (1) with revenues not exceeding \$500,000
- (2) with revenues not exceeding \$5,000,000
- (3) with revenues not exceeding \$12,000,000

See N.J.A.C. 12A:10-2.1(d). Generally, revenues are determined for this purpose by taking the gross revenues from the last three completed tax years divided by three. A selected firm shall be required to meet set-aside targets of 5% for each of these three categories. In addition, to reach the overall 25% SBE target, a selected firm shall be required to allocate an additional 10% of the dollar value of the contract to SBEs from any combination of these three SBE categories.

These targets may be met by means of a firm's own SBE registration and the registration of subcontracted firms. For instance, a proposing firm registered as an SBE may hit the target for any one of the three revenue categories, and may also hit the additional 10% target, if the firm handles at least 15% of the contract value. The remaining two categories would have to be addressed through subcontracting.

Please note that any firm identified as an SBE must be duly registered as such with the New

Jersey Office of Economic Growth at the time the firm submits its proposal, in the revenue category specified. In the event that a proposing firm names a subcontractor for SBE purposes, and the subcontractor is not registered as an SBE with the New Jersey Office of Economic Growth at the time of proposal, the proposing firm must disclose that fact and explain how the lack of registration would be cured before contract execution.

If a firm fails to show that it will meet SBE subcontracting targets, it must document its good faith efforts to meet the targets, in accordance with N.J.A.C. 12A:10-4.3.

(a) The following actions shall be taken by a bidder in establishing a good faith effort to solicit and award subcontracts to eligible small businesses, as established in the RFP:

1. The bidder shall attempt to locate qualified potential small business subcontractors;
2. The bidder shall request a listing of small businesses from the New Jersey Office of Economic Growth if none are known to the bidder;
3. The bidder shall keep a record of its efforts, including the names of businesses contacted and the means and results of such contacts;
4. The bidder shall provide all potential subcontractors with detailed information regarding the specifications; and
5. The bidder shall attempt, wherever possible, to negotiate prices with potential subcontractors submitting higher than acceptable price quotes.

(b) Bidders shall maintain adequate records to document their efforts.

The awarded firm shall not be permitted to remove or substitute any SBE firms without prior written approval from the NJSDA. The New Jersey Office of Economic Growth has information on certified SBEs, which may be obtained by calling (866) 534-7789, or by visiting its website at <http://www.nj.gov/njbusiness/contracting/>.

2.10 Business Registration

Pursuant to recent legislation, P.L. 2004, c. 57, which amended the business registration provisions of N.J.S.A. 52:32-44, each proposing firm must provide to the Board proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury (the "Division of Revenue"), in its Proposal. **A proposal that fails to contain the proposing firm's valid business registration may be rejected as non-responsive, without evaluation.**

Any subcontracted firm must provide a firm selected as a Consultant with a copy of its business registration, which the Consultant must forward to the Board. No firm selected as a Consultant may enter into any subcontract with a firm that has not provided proof of the subcontracted firm's valid business registration to such successful firm, for forwarding to the Board. The Board shall duly file all business registrations with the other procurement documents relating to the contract. **Business registrations of proposed subconsultants, however, are NOT required to be included in a firm's Proposal.**

Firms may obtain New Jersey Business Registration assistance by calling the New Jersey Department of Treasury at (609) 292-1730 or via the web at <http://www.state.nj.us/njbgs>.

Please be advised, business registrations are mailed generally within seven (7) to ten (10) days, so firms should plan accordingly.

2.11 Political Contributions (Award Requirement)

P.L. 2005, c. 51 amended and supplemented N.J.S.A. 19:44A-20.1 et seq., and superseded Executive Order 134 (2004), addresses the effect of political contributions on State contracting. Accordingly, a selected firm will be required to respond in a timely fashion to certification and disclosure requirements that **will be stated in the Notice of Award** issued by the NJSDA. Additionally, Executive Order No. 117, which is designed to enhance New Jersey's efforts to protect the integrity of government contractual decisions and increase the public's confidence in government. The Executive Order builds on the provisions of P.L. 2005, c. 51 ("Chapter 51"), which limits contributions to certain political candidates and committees by for-profit business entities that are, or seek to become, State government vendors.

3.0 INSTRUCTIONS FOR SUBMITTING A FEE PROPOSAL

Firms must complete and return a Fee Proposal in the form set forth in Attachment C to this RFP. The Fee Proposal must be submitted with the firm's Proposal, **but the Fee Proposal must be enclosed in a separately sealed, addressed envelope placed within the Proposal package.**

The firm must submit a Fee Proposal on NJSDA Budget Form 301 for Fiscal Years 1, 2 and 3, as well as for Optional Years 4 and 5. Firms must also complete an NJSDA Budget Form 302, Rates for Additional Services. These forms are found in Attachment C to this RFP. The services required are described in the Scope of Services set forth in Appendix B of the Agreement (Attachment A to this RFP).

3.1 Fee Proposal Sheet for Fiscal Years 1, 2 and 3, and Optional Years 4 and 5 (NJSDA Form 301)

The firm must submit its **lump sum fee proposal** based on labor and all other direct costs associated with providing the audit services required in Fiscal Years 1, 2 and 3 of the engagement, as well as for Optional Years 4 and 5, as set forth in Sections C.1, C.2 and C.3 of the Scope of Services, which is Appendix B of the Agreement (Attachment A to this RFP).

3.2 Billing Rates for Additional Services (NJSDA Form 302)

A firm must also submit an NJSDA Form 302 (Billing Rates for Additional Services) provided in Attachment C to this RFP. The NJSDA Form 302 will set forth proposed **loaded hourly rates** applicable to the performance of additional services, by job title. In the event that the Board, at its sole discretion, requires services in addition to those required in the form of Scope of Services attached as Appendix B to the Independent Auditor Agreement, the Consultant shall be compensated for such additional services based on the hourly rates proposed on NJSDA Form 302.

The original Fee Proposal must be submitted to the Board in a separately sealed envelope at the same time and location as the firm's Proposal, as prescribed in Section 3.0 above. Faxed or e-mailed Fee Proposals will not be accepted.

The performance of the Consultant and its subconsultants, if any, including hours spent on all required services, may be reviewed and audited by the Board, the NJSDA’s Internal Auditors, the State Auditor, and other State agencies.

4.0 SELECTION PROCEDURES

In accordance with EO 122, the Board has established an Evaluation Committee to administer the process of evaluating proposals for this procurement in conjunction with the Audit Committee.

The Evaluation Committee will review each Proposal to determine responsiveness. Non-responsive Proposals will be rejected without evaluation. The Evaluation Committee will evaluate responsive Proposals, based upon the information provided by the firms in response to this RFP, and any necessary verification thereof, and submit a written report to the Board’s Audit Committee. The Proposals will be evaluated in accordance with the evaluation criteria set forth below.

EVALUATION CRITERIA	MAXIMUM POINTS
(1) The Bidder’s Demonstrated Ability and Qualifications to Conduct Governmental Audits, as Evidenced in Resumes and Case Studies	35
(2) The Bidder’s Documented Experience in Successfully Completing Governmental Audits of a Similar Size and Scope to the Work Required by this RFP, as Evidenced in Case Studies	20
(3) The Bidder’s Proposed Fee for the Services	20
(4) The Bidder’s Detailed Approach and Plans to Perform the Services Required by the Scope of Work of this RFP	10
(5) The Bidder’s Familiarity with Federal and State Laws, Rules and Regulations Relevant to Governmental Audits	10
(6) The Bidder’s Quality of Response to RFP Package	5
TOTAL	100

The Evaluation Committee shall provide a written report of the results to the Audit Committee, with a recommendation of an award to the top-ranked firm. Upon its receipt of the report, the Audit Committee will review it and determine whether, at its sole option, it will conduct interviews and produce final technical scores based on the application of the evaluation criteria to the interviews, or whether it will deem the report’s technical scores to be final.

Upon review and concurrence with such report, and after interviews and the resulting final ranking, if any, the Audit Committee shall recommend to the Board the firm found to be most qualified with respect to the evaluation criteria. Upon approval by the Board, the successful firm shall receive a notice of award and of the necessary documents for execution. Unsuccessful firms will be notified by letter after award, and shall be afforded an opportunity for a debriefing.

After the award, any person wishing to review any/all of the Proposals submitted, the Committee's evaluation documents and/or the Recommendation of award, must complete an Open Public Records Act ("OPRA") Request, the form for which can be downloaded from the NJSDA website at <http://www.njsda.gov/opra/index.html>, and must submit such Request to Rich Yarsinsky, New Jersey Schools Development Authority, 1 West State Street, P.O. Box 991, Trenton, New Jersey 08625-0991.

Notwithstanding anything to the contrary in the above, the Board has no obligation to make an award and reserves the right to waive any non-material defects, reject all Proposals for any reason and terminate the selection process at any time.

ATTACHMENT A

INDEPENDENT AUDITOR SERVICES AGREEMENT

{See attached sheets}

AGREEMENT

between the

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

and the

CONSULTANT

for

INDEPENDENT AUDITOR SERVICES

CONTRACT NO.: GP-0143-R01

THIS AGREEMENT is made and entered into this ___ day of _____, 2009, (the “Effective Date”) between the New Jersey Schools Development Authority (the “Authority”) and _____, (“Consultant”), with a principal office location at _____.

WITNESSETH that Consultant, for and in consideration of the payments hereinafter specified and agreed to be made by the Authority, hereby covenants and agrees to do and perform all of the Services to be performed in accomplishing this Agreement for the Project identified as

Contract Number: GP-0143-R01

Project Name: Independent Auditor Services

in strict and entire conformity with the Terms and Conditions of this Agreement and all Appendices and Attachments hereto and all other documents comprising this Agreement, all of which are hereby made part of this Agreement as fully and with the same effect as if the same had been set forth at length in the body of this Agreement.

Provided that Consultant strictly and completely performs all of the Services specified and all other obligations set forth in this Agreement, and subject only to such increases or decreases as are effectuated by Amendments to the Agreement as provided by the Agreement. Compensation is addressed in Appendix C of this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement:

CONSULTANT

**NEW JERSEY SCHOOLS
DEVELOPMENT AUTHORITY**

By:
Title:

By:
Title:

Sworn and subscribed to before me
This ____ day of _____, 20__.

By: _____
Name of Affiant

Notary Public of

My commission expires: _____, 20__.

Reviewed and Approved

By: _____
Name:

TABLE OF CONTENTS

	<u>Page</u>
1.0 Definitions	1
2.0 Responsibilities of the Consultant	3
2.1 General	3
2.2 Final Release	6
3.0 Compensation	6
3.1 General Provisions	6
3.2 Invoices	7
3.3 Withholding Payment	7
4.0 Term	8
5.0 General Covenants	8
5.1 Insurance	8
5.2 Ownership of Documents	11
5.3 Copyrights and Patents	11
5.4 Confidentiality	11
5.5 Contractual Relationship	12
5.6 Assignment	12
5.7 Mergers and Acquisitions	13
5.8 Mandatory Compliance With Law	13
5.9 Affirmative Action and Non-Discrimination	14
5.10 Anti-collusion	15
5.11 Conflict of Interest	15
5.12 Indemnification	16
6.0 Termination and Suspension	17
6.1 Termination for Convenience of the Authority	17
6.2 Termination for Cause	18
6.3 Suspension for Convenience of the Authority	18
6.4 Authority's Right to Carry Out the Services	19
6.5 Unacceptable Services	19
7.0 Claims	20
8.0 Representations	21
9.0 Authority's Rights and Responsibilities	22

9.1	Authority’s Rights	22
9.2	Authority’s Responsibilities	23
10.0	Miscellaneous	23
10.1	Notices	23
10.2	In Authority by Reference	23
10.3	Conflict in Terms	23
10.4	No Waiver of Warranties or Legal/Equitable Remedies	23
10.5	Procedural Requirements	23
10.6	Governing Law	23
10.7	Time of the Essence	23
10.8	Entire Agreement and Amendments	24
10.9	Severability	24
10.10	Waiver of Breach	24
10.11	Execution in Counterparts	24
10.12	Unit of Fiscal Integrity	24

APPENDIX A:	Special Conditions
APPENDIX B:	Scope of Services
APPENDIX C:	Compensation – Fee Proposal
APPENDIX D:	Disclosure Consent & Integrity Affidavit
APPENDIX E:	Insurance Certificate(s)
APPENDIX F:	Other Documentation

1.0 DEFINITIONS

The terms set forth in this Agreement shall have the meanings ascribed to them for all purposes of this Agreement unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

- 1.1 **“Additional Services”** means services other than the Services set forth in the Scope of Services on the Effective Date.
- 1.2 **“Agreement”** means this agreement (and all Appendices) between the Authority and the Consultant for the provision of Services as such agreement may be amended from time to time in accordance with the provisions hereof.
- 1.3 **“Amendment”** means an amendment to this Agreement executed by the Parties.
- 1.4 **“Claim”** means a contract claim, demand or assertion by one of the Parties to this Agreement, seeking, as a matter of right, adjustment or interpretation of Contractual Documents, payment of money, extension of time or other relief with respect to the terms of the Contractual Documents and shall also mean other disputes and matters in question between the Parties arising out of or relating to the Contractual Documents.
- 1.5 **“Consultant”** means the firm engaged by the Authority for the Services required by this Agreement.
- 1.6 **“Consultant Client Manager”** means that person designated by the Consultant to serve as its representative during the Term (i.e., the Audit Partner for the annual audit engagement).
- 1.7 **“Contractual Documents”** means all documents setting forth Consultant and Authority obligations and responsibilities and includes, but is not limited to, the RFP, the Proposal, this Agreement, any Amendments and addenda, and all exhibits and schedules attached to such documents.
- 1.8 **“Day”** or **“Days”** means a calendar day or days.
- 1.9 **“Deliverables”** means those things included in the Scope of Services, as set forth in Appendix B.
- 1.10 **“Effective Date”** means the date on which this Agreement became effective, and for purposes of this Agreement, as that date so identified and set forth on page 1.
- 1.11 **“Fee Proposal”** means the Fee Proposal submitted by the Consultant in response to the RFP.
- 1.12 **“Fiscal Year”** means the fiscal year of the Authority, which commences on January 1 of each year and ends on December 31 of the same year.
- 1.13 **“Key Team Member”** means any officer, principal, partner or audit manager identified in the Consultant’s Technical Proposal as having a responsible role in the successful provision of the Services.
- 1.14 **“NJSDA”** or **“New Jersey Schools Development Authority”** means the entity formed pursuant to N.J.S.A. 34:1B-159 as a subsidiary of the Authority for the purpose of implementing provisions of

the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72. The Authority is the Party that has engaged the Consultant pursuant to this Agreement.

- 1.15 **“Notice to Proceed”** means a notice from the Authority to the Consultant, directing the Consultant to commence performing its responsibilities pursuant to this Agreement.
- 1.16 **“Party”** means a party to this Agreement. The Parties are the Authority and the Consultant.
- 1.17 **“Professional Services Consultants”** means consultants, including the Consultant, which may provide professional services specified in a scope of services pursuant to a contract with the Authority.
- 1.18 **“Program Manager”** means the Audit Committee of the Board of Directors.
- 1.19 **“Request for Proposals”** or **“RFP”** means the request issued by the Authority for proposals for the provision of the Services.
- 1.20 **“Schedule”** means the time-frames governing the completion of Services.
- 1.21 **“School Construction Program”** means the program operated by the Authority in order to finance and construct School Facilities Projects pursuant to the Educational Facilities Financing and Construction Act, P.L. 2000, c. 72.
- 1.22 **“School Facilities Project”** means the acquisition, demolition, design, construction, improvement, repair, alteration, modernization, renovation, reconstruction or maintenance of all or any part of a School Facility or of any other personal property necessary for or ancillary to any School Facility.
- 1.23 **“School Facility”** means and includes any structure, building or facility used wholly or in part for academic purposes.
- 1.24 **“Scope of Services”** means the scope of services required to be provided by the Consultant, as set forth in Appendix B (Scope of Services).
- 1.25 **“Services”** or **“Independent Auditor Services”** means the services required to be performed by the Consultant pursuant to the Contractual Documents, as set forth in the Scope of Services.
- 1.26 **“Special Conditions”** means that document attached as Appendix A to this Agreement, and made a part thereof, as such document may be amended from time to time.
- 1.27 **“State”** means the State of New Jersey.
- 1.28 **“Subconsultant”** means the consultant to whom another consultant subcontracts part of the services for which the latter is responsible.
- 1.29 **“Technical Proposal”** means the proposal submitted by the Consultant in response to the RFP.
- 1.30 **“Term”** means the term of this Agreement as set forth in Section 4 hereof.

2.0 RESPONSIBILITIES OF THE CONSULTANT

2.1 General

- 2.1.1 In order to provide the Services required, the Consultant shall be responsible for being thoroughly familiar with all Authority formation and governing documents, internal controls, and operations.
- 2.1.2 The Contractual Documents establish the obligations of the Consultant. The Services described in this Agreement establish the minimum obligations of the Consultant.
- 2.1.3 The services to be provided by the Consultant pursuant to this Agreement shall be performed by the Consultant and its employees and Subconsultants, if any.
- 2.1.4 The Consultant shall be required to utilize the Key Team Members identified in its Technical Proposal. The Consultant shall notify the Program Manager and the Chief Financial Officer in advance of any proposed change in its Key Team Members and shall submit to the Program Manager, for approval, the name and qualifications of proposed substitutions with equal or superior qualifications at no additional cost to the Authority.
- 2.1.5 The Program Manager may, at its option, review from time to time the Key Team Members of the Consultant. If, in the Program Manager's opinion, changes to Key Team Members are necessary, the Consultant will be notified in writing of such need, and the Consultant shall thereupon provide substitutes acceptable to the Authority.
- 2.1.6 The Consultant understands and agrees that any change to this Agreement must be made in writing in the form of an Amendment.
- 2.1.7 Any Services performed by the Consultant, without an Amendment that differ from or are in addition to the Services prescribed by this Agreement shall be done at the Consultant's own financial risk. Additional Services, if any, shall be the subject of an Amendment, and shall be compensated in accordance with terms negotiated at the time of Amendment.
- 2.1.8 The Consultant shall make no changes to the Scope of Services without the prior written consent of the Program Manager and an Amendment. When requesting consent for any such change, the Consultant must simultaneously notify the Program Manager of any need for additional compensation engendered by such changes; provide a detailed cost break-down of, and justification for, the changes sought; and detail the impact of each change upon its provision of Services. The requirements of this provision are in addition to any other requirements of the Contractual Documents regarding additional compensation.
- 2.1.9 The Consultant shall perform all Services in a good, skillful, and prompt manner. The Consultant shall perform the Services consistent with the level of skill and care ordinarily exercised by members of the Consultant's profession, currently practicing under similar circumstances.
- 2.1.10 Services shall be performed within any applicable Schedule.

- 2.1.11 The Consultant is responsible for the quality, technical accuracy, and timely completion and delivery of all Deliverables. If circumstances will result or may result in a late delivery, it shall be the responsibility and obligation of the Consultant to make the details known immediately to the Authority's Chief Financial Officer and the Program Manager.
- 2.1.12 The Consultant shall, without additional compensation, cure any errors, omissions, or other deficiencies in the Deliverables. The approval of interim Deliverables shall not relieve the Consultant of fulfilling its obligations under the Contractual Documents. Acceptance or payment for any of the Deliverables shall not be construed as a waiver by the Authority of any of its rights under the Contractual Documents or of any cause of action arising out of the Consultant's performance or non-performance under the Contractual Documents.
- 2.1.13 In the event the Consultant hires, employs or otherwise engages Subconsultants, the Consultant shall be considered the sole Consultant and the sole point of contact with regard to contractual matters under this Agreement. The Consultant assumes sole and full responsibility for the complete performance contemplated by the Contractual Documents, including the performance of all Subconsultants. The Consultant must: (i) where applicable, select only Subconsultants that have been pre-qualified by the Authority, and (ii) obtain the consent of the Program Manager prior to the engagement of any such Subconsultant.
- 2.1.14 It is expressly understood by the Consultant that approval by the Program Manager for the subcontracting of any Services under the Contractual Documents shall in no way relieve the Consultant from performing its obligations under the Contractual Documents. The Consultant shall at all times give due attention to the fulfillment of its obligations under the Contractual Documents and shall keep the Services under its control. Consent by the Program Manager to any subcontracting of any part of the Services shall not be construed to be an approval of said subcontract or of any of its terms, but shall operate only as an approval of the engagement by the Consultant of the Subconsultant. The Consultant shall be responsible for all Services performed by its Subconsultants, which Services shall conform to the provisions of the Contractual Documents and the requirements of applicable law.
- 2.1.15 For all Services rendered, the Consultant shall, in accordance with generally accepted accounting principles and practices, maintain overhead, cost and accounting records, as well as all other records the Consultant may customarily maintain in its business. Such records shall be maintained and made available for inspection by the Authority and the NJ State Police (or their agents) as to all aspects of the Services provided under the Contractual Documents, whether the Services are performed by the Consultant, its Subconsultant or any other firm. The Consultant shall retain all electronic records for a period of six (6) Fiscal Years following final payment by the Authority or the end of the Fiscal Year in which this Agreement expires, whichever occurs later.
- 2.1.16 The Consultant agrees that it shall assist and cooperate with the Authority in any legal action or proceeding that is related to or that arises out of or in connection with its performance under the Contractual Documents and in which action or proceeding the Authority and the Consultant are not named as adverse parties. Such assistance shall include, but not be limited to, testifying as an expert witness or preparing exhibits, reports or models. Any Services provided by the Consultant pursuant to this paragraph shall be deemed Additional Services

and shall be compensated as such in accordance with terms negotiated at the time of an appropriate Amendment.

- 2.1.17 The Consultant shall designate a Key Team Member at the Consultant's firm, satisfactory to the Program Manager. So long as the Consultant Client Manager's performance is acceptable, he or she shall remain in charge of the firm's Services, shall represent the Consultant, and be available for general consultation throughout the Term.
- 2.1.18 The Consultant, to the best of its knowledge, information, and belief, shall abide by all applicable local, state, and national regulatory requirements, as well as all regulations imposed by funding sources (auditing requirements, payroll affidavits, etc.), such as may be identified at the time of execution of this Agreement.
- 2.1.19 Business Registration. The Consultant and any Subconsultant provided to the Authority proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury, pursuant to N.J.S.A. 52:32-44b, as set forth in Appendix E hereto. The Consultant shall provide written notice to any firm that may become its Subconsultant that it shall not enter into any subcontract with a Subconsultant that has not provided it with proof of such business registration, a copy of which the Consultant shall forward to the Authority, in accordance with N.J.S.A. 52:32-44c. The Consultant shall maintain and submit to the Authority a list of Subconsultants and their addresses, which list must be updated as necessary during the Term. A complete and final version of such list must be submitted to the Authority before final payment for Services shall be made.
- 2.1.20 Payment of Use Taxes. Pursuant to N.J.S.A. 52:32-44g, the Consultant and any Subconsultant of the Consultant, and any affiliate of the Consultant shall collect and submit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., on all their sales of tangible personal property delivered into this State. The Consultant shall provide in each contract with a Subconsultant that each such Subconsultant shall collect and submit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the Sales and Use Tax Act, N.J.S.A. 54:32B-1 et seq., on all their sales of tangible personal property delivered into this State. For purposes of this section, "affiliate" shall mean any entity that: (i) directly, indirectly, or constructively controls another entity, (ii) is directly, indirectly, or constructively controlled by another entity, or (iii) is subject to the control of a common entity if it owns, directly or individually, more than 50% of the ownership interest in that entity.
- 2.1.21 Political Contributions. Consultant shall, on a continuing basis, disclose and report to the Authority any "contributions," as that term is defined in P.L. 2005, c. 51 (formerly Executive Order No. 134 (2004)), made during the Term by it or any "Business Entity," as that term is defined in P.L. 2005, c. 51, associated with the Consultant, on the "Disclosure of Political Contribution" form provided by the Authority, at the time such contribution is made.
- 2.1.22 Political Contributions Disclosure. Consultant comply with its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission ("ELEC"), pursuant to N.J.S.A. 19:44A-20.13 (P.L. 2005, c. 271, section 3), in the event it receives contracts in excess of \$50,000 from a public entity in a calendar year. It is the Consultant's responsibility to determine if filing is necessary. Failure

to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

- 2.1.23 Outsourcing Provisions. In accordance with P.L. 2005, c. 92 (formerly Executive Order No. 129 (2004)), the Consultant shall have a continuing duty to comply with the provisions of P.L. 2005, c. 92, as applicable. If, during the Term, the Consultant or a subcontracted firm, who had on contract award declared that Services would be performed in the United States, proceeds to shift the performance of the Services outside of the United States, the Consultant shall be deemed in breach of the Agreement, which shall be subject to termination for cause, unless the Senior Director of the Authority's Division of Procurement & Contract Services shall determine in writing that extraordinary circumstances require a shift of services or that a failure to shift the services would result in economic hardship to the Authority or the State.

2.2 Final Release

The Consultant's acceptance of final payment shall constitute a final release from and waiver of all the Consultant's Claims except for: (i) those Claims the Consultant expressly reserves at the time of application for final payment; (ii) those Claims arising after final payment as a result of actions brought against the Consultant by third parties; and (iii) those Claims arising after final payment due to an alleged breach by the Authority of any Agreement provision that survives after the Term.

3.0 COMPENSATION

3.1 General Provisions

- 3.1.1 Lump Sum. The Consultant shall be compensated over the Term of the contract in accordance with the annual lump sums set forth in Appendix C (Compensation – Fee Proposal), NJSDA FORM 301.
- 3.1.2 The Consultant shall be paid after invoices are submitted and approved.
- 3.1.3 Acceptance or approval of, or payment for, any of the Services performed by the Consultant under the Contractual Documents shall not constitute a release or waiver of any Claim the Authority has or may have for latent defects, errors, breaches, or negligence.
- 3.1.4 All payments for Services under the Contractual Documents will be made only to the Consultant, and Consultant assumes sole responsibility for payments due any Subconsultant.
- 3.1.5 Unless otherwise set forth in writing by the Authority, prices quoted shall be firm and not subject to increase during the Term.
- 3.1.6 The Authority assumes no responsibility or liability for costs the Consultant incurred prior to the Effective Date, and thereafter only as explicitly set forth in the Contractual Documents.

3.2 Invoices

- 3.2.1 Invoices for Services shall be submitted based upon the following schedule: 40% upon completion of interim field work; 50% upon completion of the 1st month of final field work; and 10% upon completion of the annual Deliverables as set forth in the Scope of Services. Additional Services approved by the Authority shall be billed upon completion and shall be accompanied by such supporting documentation as may be required by the Authority, including: billing period; name and job title; a description of the agreed upon Additional Services; labor hours billed (in increments of 1/4 hours) for the Additional Services; the hourly billing rate based upon job title as set forth in Appendix C (Compensation – Fee Proposal), NJSDA FORM 302; and the extended amount and total amount of services billed during the billing period. Electronic invoices with associated backup are acceptable.
- 3.2.2 Invoices shall be submitted to the Authority’s Chief Financial Officer and must identify this Agreement’s contract number.
- 3.2.3 Invoices submitted to the Authority’s Chief Financial Officer shall be processed and paid only after the Authority determines that the Services for which payment is sought have been completed at the times and in the manner specified in the Contractual Documents. The Authority shall not pay invoices if the Program Manager and/or Chief Financial Officer determine that the Services for which payment is sought are incomplete or unsatisfactory.
- 3.2.4 Each invoice signed by the Consultant and submitted to the Authority’s Chief Financial Officer shall be a representation by the Consultant that all payments due to its Subconsultants have been made and that all relevant laws and regulations have been complied with.
- 3.2.5 All invoices shall be accompanied by appropriate backup to ensure billing accurately represents work incurred.

3.3 Withholding Payment for Unsatisfactory Services or Non-delivery of Deliverables

- 3.3.1 If the Program Manager determines that any Services are incomplete or unsatisfactory, or if the Program Manager determines that Deliverables have not been delivered at the times and in the manner and form specified in the Contractual Documents, the Authority will either: (i) retain for payment the relevant invoice (or portion thereof) until such time as the Consultant has made the necessary corrections/deliveries, or (ii) return the relevant invoice to the Consultant, who shall resubmit the invoice once all of the Services have been completed or corrected or the Deliverables have been delivered.
- 3.3.2 The withholding of any sums pursuant to this Section 3.3 shall not be construed as, or constitute in any manner, a waiver by the Authority of the Consultant’s obligation to furnish the items required under the Contractual Documents. In the event the Consultant fails to furnish these items, the Authority shall have those rights and remedies provided by law and pursuant to the Contractual Documents in addition to, and not in lieu of, the sums withheld in accordance with this Section 3.3.

4.0 TERM

Unless terminated sooner under Section 6 of this Agreement, the Term of this Agreement shall extend from the Effective Date for a period of three (3) years or until all obligations of the Consultant to deliver Services pursuant to this Agreement have been performed to the satisfaction of the Authority, whichever occurs later, unless at the sole option of the Authority, it is extended for two-one (1) extensions, in which case the Term shall extend from the Effective Date through such additional period or until all obligations of the Consultant to deliver Services pursuant to this Agreement have been performed to the satisfaction of the Authority, whichever occurs later.

5.0 GENERAL COVENANTS

5.1 Insurance

5.1.1 Prior to undertaking any work under this Agreement, the Consultant, at no expense to the Authority, shall obtain and provide to the Authority evidence of a policy or policies of insurance as enumerated below.

5.1.2 The Consultant shall maintain, and/or cause their subconsultants to maintain, at their own cost and expense, the following insurance coverages/policies insuring the Consultant, its employees, subconsultants and agents. The Consultant shall obtain this insurance from insurance companies that are authorized to transact the business of insurance in the State of New Jersey and that are "A- VII" (or better) rated, as determined by A. M. Best Company. In each policy, the Consultant shall have incorporated a provision, in accordance with the laws of the State of New Jersey, requiring written notice to the Authority at least thirty (30) Days prior to cancellation or non-renewal of any insurance coverage required under this Section. The Consultant warrants that if the insurer or coverage is not subject to the provisions requiring (30) day prior notification, that it will notify the Authority in writing of any cancellation or non-renewal of any insurance coverage required under this Section. Any and all deductibles shall be paid by the Consultant. The Consultant warrants that its insurance carriers are accurately informed regarding the business activities of the Consultant and intend to cover those business exposures. All insurance policies, exclusive of Professional Liability and Workers' Compensation, shall name the Authority as Primary Additional Insured and will include a Waiver of Subrogation. In addition, the Consultant may also be required to name other parties as Additional Insureds prior to the initiation of such work, and shall comply with all laws, ordinances, rules and regulations of Federal, State, county and municipal authorities in the performance of said work. The types and minimum amounts of insurance required are as follows:

5.1.2.1 Professional Liability Insurance (Errors & Omissions). The Consultant shall maintain Professional Liability Insurance with coverage retroactive to the Effective Date, sufficient to protect the Consultant from any liability arising from the Services and professional obligations performed pursuant to this Agreement in an amount not less than \$3,000,000 per claim and \$3,000,000 in the aggregate for all operations conducted. The Consultant warrants they will notify the Authority in writing of any reduction in the aggregate coverage within thirty (30) days. The Consultant warrants that coverage shall not be circumscribed by any endorsements excluding coverage arising out of services performed pursuant to this Agreement.

5.1.2.2 Commercial General Liability Insurance. The Consultant shall maintain Commercial General Liability Insurance (CGL), and, if necessary, Commercial Umbrella Insurance with a limit of not less than \$5,000,000 for each occurrence, \$5,000,000 aggregate limit for products/completed operations and \$5,000,000 general aggregate limit. CGL insurance shall be written on an ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall not be circumscribed by any endorsements limiting the breadth of coverage. The policy shall include liability arising out of, occasioned by or resulting from premises, operations, independent contractors, products, completed operations, personal injury and advertising injury, and liability assumed under an insured contract in connection with Services performed under this Agreement. The EDA, the Authority, the State of New Jersey and their respective directors, officers, members, employees and agents shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 (or a substitute form providing equivalent coverage), and under the Commercial Umbrella, if any. In addition, the Consultant may also be required to name other parties as additional insureds prior to the initiation of Services. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to the Authority.

5.1.2.3 Worker's Compensation Insurance. The Consultant shall, at its own cost and expense, maintain Workers' Compensation and Employers' Liability insurance prescribed by the laws of the State of New Jersey and any other jurisdiction required to protect employees of the Consultant while engaged in the performance of the Services under this Agreement. Workers' Compensation coverage shall be statutory and the Employers' liability limits (including Umbrella coverage) shall not be less than \$1,000,000 per accident for bodily injury by accident and \$1,000,000 for each employee for bodily injury by disease and \$1,000,000 policy limit for bodily injury by disease.

5.1.2.4 Business Automobile Liability Insurance. The Consultant shall, at its sole cost and expense, maintain Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each accident. Such insurance shall cover liability arising out of any automobile, including coverage for all owned, non-owned and hired vehicles. The Business Automobile coverage shall be written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage). If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. The EDA, the Authority, the State of New Jersey and their respective directors, officers, members, employees and agents shall be included as an insured under the Business Automobile, using ISO Designated Insured endorsement CA 20 48 (or a substitute form providing equivalent coverage), and under the Commercial Umbrella, if any. In addition, the Consultant may also be required to name other parties as designated insureds prior to the initiation of such work.

5.1.3 Certificates of Insurance. Attached to this Agreement as Appendix E shall be valid insurance certificates, executed by a duly authorized representative of each insurer, in form and substance satisfactory to the Authority, evidencing compliance with the insurance requirements. An insurance certificate must be submitted to evidence each insurance renewal required by this Section. Failure of the Authority to demand such certificates or other evidence of full compliance with the insurance requirements set forth herein or failure

of the Authority to identify a deficiency in the insurance provided shall not be construed as a waiver of the Consultant's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this Agreement at the Authority's sole option. The Consultant shall provide certified copies of all insurance policies, including any and all amendatory endorsements, within ten (10) Days of the Authority's written request for such policies.

- 5.1.4 **Liability in Excess of Coverage.** By executing this Agreement, the Consultant expressly agrees that any insurance protection required herein or by the Consultant's Documents shall in no way limit the Consultant's obligations under this Agreement or the Consultant's Documents and shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it preclude the Authority from taking such other actions as are available to it under other provisions of this Agreement or the Consultant's Documents or otherwise in law or equity. By requiring insurance herein, the Authority does not represent that coverage and limits will necessarily be adequate to protect the Consultant, and such coverage and limits shall not be deemed as a limitation on the Consultant's liability under this Agreement.
- 5.1.5 **Right to Remedy.** If the Consultant fails to obtain and/or maintain the insurance as required in this Section, fails to renew any of its insurance policies as necessary, or in the event any policy is canceled, terminated or modified so that the insurance does not meet the requirements of this Agreement, the Authority may: (i) purchase insurance at the Consultant's sole expense; (ii) refuse to make payment of any further amounts due under this Agreement; (iii) refuse to make payments due or coming due under other agreements between the Consultant and the Authority; (iv) suspend performance by the Consultant under this Agreement; or (v) terminate this Agreement. Any funds retained pursuant to this Section may be used, at the Authority's discretion, to renew or purchase the Consultant's insurance for the periods and amounts as set forth in this Agreement. In the event the Authority purchases said insurance the Authority may, at its discretion, reduce the Consultant's Compensation under this Agreement by the amount paid for such insurance plus reasonable attorney's fees.
- 5.1.6 **Additional Insurance.** The Consultant shall also provide such additional types of insurance in such amounts as the Authority shall reasonably require. In the event that any such additional insurance is required, the Consultant shall deliver certified copies of each policy to the Authority within ten (10) days of the Authority's written request for such insurance.
- 5.1.7 **Waiver of Subrogation.** The Consultant waives all rights of subrogation and recovery against the Authority, agents or employees of the Authority to the extent these damages are covered by the CGL, Business Automobile Liability or Commercial Umbrella Liability Insurance obtained by the Consultant. If the policies of insurance purchased by the Consultant as required above do not expressly allow the insured to waive rights of subrogation prior to loss, the Consultant shall cause them to be endorsed with a waiver of subrogation as required herein.
- 5.1.8 Any deductible or self-insured retention (SIR) applicable to the aforementioned insurance shall be declared to and approved by the Authority and written using ISO endorsement CG 03 00 (or a substitute providing equivalent terms and conditions). The Consultant shall not be permitted to have a SIR larger than \$100,000 unless it obtains the express, written

consent of the Authority to the larger SIR. FAILURE TO COMPLY WITH SECTION 5.1.8 IS A MATERIAL BREACH OF CONTRACT.

If any of the aforementioned insurance is written on a “claims made basis,” the Consultant warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of five (5) years after the date of Final Payment by the Authority and the Consultant will provide Certificates of Insurance evidencing continuance of coverage with the original claims made retroactive date. Within the Certificate of Insurance, in the blocks designated "Policy Number," in addition to the policy number, the Consultant shall insert a note "claims made retroactive date ___/___/___" (with the date inserted).

5.2 Ownership of Documents

- 5.2.1 Audit workpapers will remain the property of the Consultant with the provision that copies be made available to the NJSDA, in a timely manner and at no additional cost to the NJSDA, upon request by the NJSDA.
- 5.2.2 Except for audit workpapers subject to Section 5.2.1 above, in consideration of the Authority’s execution of this Agreement and for other good and valuable consideration, all Deliverables, unless otherwise provided, shall be the sole property of the Authority.
- 5.2.3 The Consultant’s promotional and professional (or other) materials shall not include Authority confidential or proprietary information, except with the written consent of the Authority.

5.3 Copyrights and Patents

- 5.3.1 If the Consultant employs any design, device, material, or process covered by letters of patent or copyright, it shall provide for such use by suitable legal agreement with the patent holder. The Consultant shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the Deliverables.
- 5.3.2 The Consultant shall defend, indemnify and save harmless the Authority and the State from any and all Claims for infringement by reason of the use of any patented design, device, material or process, or any trademark, copyright, trade secret or any other material protected in any manner from use or disclosure, and shall indemnify the Authority and the State for any costs, expenses and damages that it may incur by reason of an infringement at any time during the prosecution, or after the acceptance, of the Services.

5.4 Confidentiality

- 5.4.1 All data contained in documents supplied by the Authority or by any other party under an Authority contract or otherwise involved in the School Construction Program and data gathered by the Consultant in fulfillment of the Contractual Documents and any analyses thereof (whether in fulfillment of the Contractual Documents or not), are to be considered strictly confidential and shall be solely for use in connection with the School Construction Program, except to the extent the Authority may identify any such as government documents within the meaning of N.J.S.A. 47:1A-1 et seq.

- 5.4.2 The Consultant shall be required to use utmost care to protect the confidentiality of data by, among other things, requiring these confidentiality terms and conditions to be included in its contract(s) with Subconsultants, if any, and requiring personnel assigned to provide Services to sign a confidentiality agreement in a form provided by the Authority. Any release of confidential material in any form by the Consultant, its employees, Subconsultants or assignees will be considered a violation of the Contractual Documents. Penalties for violation of this paragraph include, but are not limited to, termination of this Agreement and/or legal action, without the Authority being liable for damages, costs and/or attorney fees. The Consultant shall be liable for any and all damages arising from its breach of this confidentiality provision.

5.5 Contractual Relationship

- 5.5.1 Nothing in the Contractual Documents shall be construed as creating a contractual relationship between any Subconsultant of the Consultant and the Authority.
- 5.5.2 The Consultant's status shall be that of an independent contractor, not an employee of the Authority. The Consultant agrees that it will conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the Authority by reason hereof. The Consultant shall not, by reason hereof, make any Claim, demand or application to any Authority officer or employee for any right or privilege afforded to an Authority officer or employee, including, but not limited to, workers' compensation, unemployment or other insurance benefits, social security coverage, or retirement membership or credit.
- 5.5.3 The Consultant and any Subconsultants engaged by the Consultant under this Agreement are bound by the terms and conditions of the Contractual Documents.
- 5.5.4 Nothing contained in this Agreement or the Contractual Documents shall create a contractual relationship with a third party or create a cause of action in favor of a third party against either Party. No individual, firm, Authority, or any combination thereof, which supplies materials, labor, services or equipment to the Consultant for the performance of Services shall become thereby a third party beneficiary of the Contractual Documents.
- 5.5.5 The Parties hereby bind themselves, their partners, successors, assigns and legal representatives each to the other Party and the other Contractual Documents.

5.6 Assignment

- 5.6.1 The Consultant shall not assign or transfer its obligations, privileges or rights under the Contractual Documents without the prior written consent of the Authority. Any assignment or transfer of the Consultant's rights under the Contractual Documents without the prior written consent of the Authority shall not relieve the Consultant of any duty, obligation or liability assumed by it under the Contractual Documents.
- 5.6.2 Notwithstanding anything to the contrary, under no circumstance shall the Consultant assign its right to receive money under the Contractual Documents for any purpose or to any person whatsoever without the prior written approval of the Authority or order of court.

5.7 Mergers, Acquisitions, and Dissolutions

- 5.7.1 If, subsequent to the execution of this Agreement, the Consultant proposes to merge with or be acquired by another firm or in the event of a proposed dissolution by the Consultant, the Consultant shall immediately notify the Authority and shall submit documentation to the Authority describing the proposed transaction.
- 5.7.2 The Authority, in its sole discretion, may approve the continuation of this Agreement following the proposed transaction or terminate this Agreement for cause. The Authority will notify the Consultant of its decision within thirty (30) Days of receipt by the Authority of documentation from the Consultant describing the proposed transaction.
- 5.7.3 If the Authority approves a merger or acquisition, the Consultant shall submit to the Authority: (i) corporate resolutions prepared by the Consultant and the new entity ratifying acceptance of the Contractual Documents; (ii) information necessary to ensure that the new entity satisfies the Authority's pre-qualification policies and procedures, where applicable; (iii) the names and addresses of all owners and potential owners which hold or may acquire five percent (5%) or more of its stock or interest; (iv) any new or changed Federal Employer Identification Number(s); (v) acknowledgment of the assumption of the Contractual Documents by the new entity; and (vi) any other information the Authority may require.
- 5.7.4 If the Authority approves a dissolution, the Consultant shall submit to the Authority: (i) a copy of the corporate resolution, or the written statement of the partnership, general partner, receiver or custodian thereof, or the written agreement of the principal parties of a joint venture to dissolve the Authority, partnership or joint venture, respectively; (ii) information necessary to ensure that the new entity satisfies the Authority's pre-qualification policies and procedures, where applicable; (iii) any new or changed Federal Employer Identification Number(s); (iv) acknowledgment of the assumption of the Contractual Documents by the new parties; and (v) any other information the Authority may require.

5.8 Mandatory Compliance With Law

- 5.8.1 The Consultant must comply during the Term with any and all Federal, State and local laws in effect or hereinafter promulgated that apply to performance by the Consultant under the Contractual Documents.
- 5.8.2 Each and every provision required by law to be inserted in the Contractual Documents shall be deemed to have been inserted therein. If any such provision has been omitted or has not been correctly inserted, the Contractual Documents shall be amended, upon application of either Party, to provide for such insertion or correction.
- 5.8.3 If the Authority determines that the Consultant has violated or failed to comply with applicable Federal, State or local laws with respect to its performance under the Contractual Documents, the Authority may withhold payments for such performance and take such action that it deems appropriate until the Consultant has complied with such laws or has remedied such violation or non-compliance to the satisfaction of the Authority.

- 5.8.4 The Consultant's compliance with the legal requirements of this Section 5.8 and any other applicable laws, regulations or codes is mandatory and cannot be waived by the Authority.

5.9 Affirmative Action and Non-discrimination

- 5.9.1 The Consultant and its Subconsultants shall abide by affirmative action rules established by the New Jersey Department of the Treasury at N.J.A.C. 17:27-1.1 et seq. under P.L. 1975, c. 127, the small business set-aside rules for the procurement of goods and services established by the Commerce and Economic Growth Commission at N.J.A.C. 12A:10-1.1 et seq. and by Executive Order No. 71 (2003), and the affirmative action program established by the Authority pursuant to Section 48 of the Educational Facilities Financing and Construction Act, P.L. 2000, c. 72, and any rules and regulations associated therewith.
- 5.9.2 The Consultant shall not discriminate in employment and shall abide by all anti-discrimination laws, including those contained within N.J.S.A. 10:5-1 et seq., and all rules and regulations issued thereunder. During the performance of this Agreement, the Consultant and its Subconsultants agree as follows:
- 5.9.2.1 The Consultant and its Subconsultants, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the Consultant and its Subconsultants will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant and its Subconsultants agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;
- 5.9.2.2 The Consultant and its Subconsultants, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex;
- 5.9.2.3 The Consultant and its Subconsultants, where applicable, will send to each labor union or representative of workers with which they have a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's (and its Subconsultants') commitments under this act [N.J.S.A. 10:5-1 et seq.] and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- 5.9.3 The Consultant shall abide by the provisions of the Americans With Disabilities Act, 42 U.S.C. § 12101 *et seq.*, with respect to its employment practices.
- 5.9.4 The Consultant shall comply with the *MacBride* principles of nondiscrimination in employment, or have no business operations in Northern Ireland, under N.J.S.A. 52:34-12.2.

5.10 Anti-collusion

- 5.10.1 The Consultant, by executing this Agreement, does hereby warrant and represent that this Agreement has not been solicited, secured or prepared, directly or indirectly, in a manner contrary to the laws of the State; and that said laws have not been violated and shall not be violated as they relate to the procurement or the performance of the Services by any conduct, including the paying or giving of any fee, commission, compensation, gift, gratuity, or consideration of any kind, direct or indirect, to any employee, officer, or board member of the Authority.
- 5.10.2 The penalty for breach or violation of this Section 5.10 may, at the sole option of the Authority, result in: (i) the termination of this Agreement without the Authority being liable for damages, costs and/or attorney fees; and/or (ii) a deduction from the payments to be made by the Authority pursuant to this Agreement.

5.11 Conflict of Interest

- 5.11.1 The Consultant shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity or other thing of value of any kind to: (i) an Authority officer or employee with which the Consultant transacts, or offers or proposes to transact, business; or (ii) any member of the immediate family (defined by N.J.S.A. 52:13D-13i) of any such Authority officer or employee; or (iii) any partnership, firm or Authority with which such Authority officer or employee is employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
- 5.11.2 The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Authority officer or employee from the Consultant shall be reported in writing forthwith by the Consultant to the State Attorney General and the Executive Commission on Ethical Standards.
- 5.11.3 The Consultant shall not directly or indirectly undertake any private business, commercial or entrepreneurial relationship (whether or not pursuant to employment, contract or other agreement, express or implied) with, or sell any interest in the Consultant to, any Authority officer or employee having any duties in connection with the purchase, acquisition or sale of any property or services by or to the Authority; and shall not undertake any such relationship with, or sell any such interest to, any person, firm or entity with which such Authority officer or employee is employed or associated, or in which such Authority officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13(g). Any relationship subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the officer or employee and upon a finding that the present or proposed relationship presents neither an actual conflict of interest, nor the potential for, or appearance of, such a conflict of interest.

- 5.11.4 The Consultant shall not influence, attempt to influence, or cause to be influenced any Authority officer or employee in such officer's or employee's official capacity in any manner that might tend to impair the objectivity or independence of judgment of said officer or employee.
- 5.11.5 The Consultant shall not cause or influence or attempt to cause or influence, any Authority officer or employee to use or attempt to use such officer's or employee's official position to secure unwarranted privileges or advantages for the Consultant or any other person.
- 5.11.6 Under N.J.S.A. 52:34-19, it is a misdemeanor to offer, pay or give any fee, commission, compensation, gift or gratuity to any person employed by the Authority. It is the policy of the Authority to treat the offer of any gift or gratuity by the Consultant, its officers or employees, to any person employed by the Authority as grounds for debarment or suspension from submitting proposals and providing work or materials to the Authority.
- 5.11.7 The provisions cited in this Section 5.11 shall not be construed to prohibit an Authority officer or employee from receiving gifts from or contracting with the Consultant under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines that the Executive Commission on Ethical Standards may promulgate under the provisions contained herein.

5.12 Indemnification

- 5.12.1 To the fullest extent permitted by law, the Consultant shall indemnify, protect, defend and save harmless the State of New Jersey, the Authority, as well as their respective agents, servants, officers, directors and employees, from and against any loss, damage, injury, cost or expense; and from and against any Claim, demand, liability, lawsuit, judgment, action or other proceeding arising, to arise from, in connection with, or as a result of any of the following:
- 5.12.1.1 the negligent acts or omissions of the Consultant, its agents, servants, officers, employees, Subconsultants or any other person acting at the Consultant's request, subject to its direction, or on its behalf;
- 5.12.1.2 the loss of life or property, or injury or damage to the person, body or property of any person or persons whatsoever, that arises or results directly or indirectly from the negligent performance of the Services or delivery of Deliverables by the Consultant, its agents, servants, officers, employees, Subconsultants or any other person acting at the Consultant's request, subject to its direction, or on its behalf;
- 5.12.1.3 any gross negligence, default, or breach, of the Consultant, its agents, servants, officers, employees, Subconsultants or any other person acting at the Consultant's request, subject to its direction, or on its behalf;
- 5.12.1.4 violation or non-compliance with federal, State, local and municipal laws and regulations, ordinances, building codes (including without limitation the Americans with Disabilities Act and OSHA Environmental Protection Act) arising from the performance or non-performance of, or arising out of conditions created or caused to be created by, the Consultant, its agents, servants, officers, employees,

Subconsultants or any other person acting at the Consultant's request, subject to its direction, or on its behalf; and

5.12.1.5 the use of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article or appliance furnished or used in performing Services.

5.12.2 The Consultant's indemnification obligation is not limited by, but is in addition to, the Consultant's insurance obligations contained in this Agreement.

5.12.3 The Consultant agrees that any approval by the Authority of the Services performed, and/or reports, plans or specifications provided by the Consultant shall not operate to limit the obligations of the Consultant under the Contractual Documents; and that the Authority assumes no obligations to indemnify or save harmless the Consultant, its agents, servants, employees, or Subconsultants against all Claims that may arise out of its performance or nonperformance under the Contractual Documents; and that the provisions of this indemnification clause shall in no way limit the Consultant's obligations under the Contractual Documents, nor shall they be construed to relieve the Consultant from any liability, nor preclude the Authority from taking any other actions available to it under any other provisions of the Contractual Documents or otherwise at law or equity.

5.12.4 This Section 5.12 shall survive the termination of the Contractual Documents.

6.0 TERMINATION AND SUSPENSION

Nothing contained in this entire Section 6.0 shall limit the Authority's right to recover any and all costs and damages resulting from Consultant failure to perform the Services in a satisfactory manner.

6.1 Termination for Convenience of the Authority

6.1.1 Performance by the Consultant of its obligations under the Contractual Documents may be terminated by the Authority in accordance with this Section 6.1 in whole or in part, whenever the Authority, in its sole discretion, determines that such termination is in its best interest.

6.1.2 Any such termination shall be effected by delivery of a "Notice of Termination" specifying the extent to which the Services under the Contractual Documents are terminated and the date upon which such termination becomes effective.

6.1.3 If so terminated, the Consultant shall be entitled only to that proportion of the compensation that the Services actually and satisfactorily performed by the Consultant bear to the total Services to be rendered under the Contractual Documents, less payments previously made.

6.1.4 The Authority may negotiate with the Consultant to establish an amount of compensation for the Consultant's costs incurred in the close-out of the Contractual Documents.

6.1.5 Upon termination for convenience, the Consultant shall furnish to the Authority, free of charge, such close-out reports, documents, and materials as the Authority may reasonably require.

6.2 Termination for Cause

- 6.2.1 Without prejudice to any other remedy, the Authority may terminate this Agreement if the Consultant: (i) disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction; (ii) refuses or fails to supply enough properly skilled workers or proper materials; (iii) fails to make payments to Subconsultants for materials or labor in accordance with the respective agreements between the Consultant and the Subconsultants; (iv) fails to maintain or produce any records required by the Contractual Documents to be so maintained or produced; (v) fails to cooperate with the Authority where such cooperation is deemed necessary by the Authority for the implementation of the Contractual Documents; (vi) fails to obtain and properly maintain the level of insurance coverages outlined in Section 5.1; (vii) assigns or transfers its obligations, privileges or rights under the Contractual Documents without the prior written consent of the Authority; (viii) makes any misrepresentation or conceals any material fact; or (ix) commences or has commenced against it any action under the United States Bankruptcy Code or any state or federal insolvency law, the commencement of which, in the Authority's judgment, may effectively impair the ability of the Consultant to perform its obligations under the Contractual Documents; or (x) violates or breaches the Contractual Documents or any provision or material term thereof. For all such causes of termination except those contained in subsections (viii) and (ix), the Consultant may avoid termination if, within seven (7) Days of Notice of Termination, it commences correction of such default, neglect or violation, with diligence and promptness, fully curing same within the time prescribed by the Authority within the Notice of Termination; failure to do so shall result in termination of this Agreement.
- 6.2.2 Upon termination by the Authority pursuant to this Section 6.2, the Authority may, without prejudice to any other rights or remedies of the Authority, complete Services by whatever methods the Authority may deem appropriate.
- 6.2.3 In the event this Agreement is terminated for cause pursuant to this Section 6.2, the Authority reserves the right not to make any further payments to the Consultant and may require the Consultant to repay all or a portion of the monies already paid; and the Consultant shall be obligated to take any steps necessary to enable the Authority to complete the Services itself, or for the Authority to engage another Consultant to complete the Services at the Consultant's own expense for the portion that exceeds the amount that would have been paid to the Consultant for completing the Services.
- 6.2.4 No action by the Authority pursuant to this Section 6.2 shall operate to waive or release any Claim the Authority may have against the Consultant under the Contractual Documents.

6.3 Suspension for Convenience of the Authority

- 6.3.1 The Authority shall have the right to defer the beginning, or to suspend the whole or any part, of the Services whenever, in the sole discretion of the Authority, it is necessary or expedient for the Authority to do so. The Authority shall by notice to the Consultant suspend performance of the Services and upon receipt of such notice, unless otherwise directed in writing by the Authority; the Consultant shall immediately discontinue all Services, except as may be deemed necessary by the Program Manager.
- 6.3.2 In the event of a suspension by the Authority pursuant to this Section 6.3, compensation shall

be determined as follows:

6.3.2.1 If the Authority determines that the Services have been suspended for a period cumulatively totaling less than ninety (90) Days, there shall be no additional compensation paid to the Consultant.

6.3.2.2 If the Authority determines that the Services have been suspended for a period cumulatively totaling ninety (90) Days or more, and if the Authority determines that the suspension has resulted from no fault of the Consultant, the Parties shall amend this Agreement to cover the remaining Services to be performed. Such Amendment shall provide a compensation adjustment in an amount deemed proper by the Authority and Consultant after review of the Consultant's submissions relating to the increased costs actually incurred by the Consultant as a direct result of the suspension. No such Amendment will change other Contractual Documents terms.

6.3.3 When the Authority has determined that a suspension is the fault of the Consultant, the Authority may, at its sole option, suspend all payments to the Consultant. Payment may be reinstated by the Authority upon completion of the Services in accordance with the other provisions of this Agreement and the other Contractual Documents provided, however, that there shall be no upward adjustment in direct or indirect costs or in any other costs. Alternatively, the Authority may terminate this Agreement pursuant to Section 6.2, above, or carry out the Services as provided for in Section 6.4, below.

6.4 Authority's Right to Carry Out the Services

6.4.1 If the Consultant fails to perform any obligation imposed under the Contractual Documents, and fails within seven (7) Days after receipt of written notice to commence and continue correction of such failure with diligence and promptness, the Authority may take steps to remedy such failure without prejudice to any other remedy the Authority may have. In such case, an appropriate written notice shall be issued deducting from the payments then or thereafter due the Consultant the cost of correcting such failure, including compensation for other Professional Services Consultant additional services made necessary by such failure. If the payments then or thereafter due the Consultant are not sufficient to cover such amount, the Consultant shall pay the difference to the Authority upon demand.

6.4.2 Any action by the Authority under this Section 6.4 shall be without prejudice to the Authority's rights under the Contractual Documents and shall not operate to release the Consultant from any of its obligations under the Contractual Documents.

6.5 Unacceptable Services; Duty to Cure Errors and Omissions

6.5.1 The Authority shall give the Consultant written notice as soon as practicable after it becomes aware of an error or omission by the Consultant. If the Authority determines that any Service delivered is unacceptable, in quality, timeliness, or any other condition, due to error, omission or failure to comply with requirements of the Contractual Documents, the Consultant shall

correct and revise the unacceptable Services under the Authority's direction at no cost to the Authority. The corrected and revised Services shall be resubmitted to the Authority for approval.

6.5.2 The Consultant shall be liable to Authority for all damages to Authority caused by Consultant errors or omissions. The Consultant shall reimburse Authority for all costs incurred by Authority as a result of such errors and omissions, including interest and other expenses.

7.0 CLAIMS

All Claims by the Consultant against the Authority shall be governed by the following provisions.

7.1 **General.** All Claims asserted by the Consultant against the Authority shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq. and the New Jersey False Claims Act, N.J.S.A. 2A:32 et seq.

7.2 **Notice of Claim.** The Consultant shall file notice of its Claim on a form provided by the Authority, which form shall be completed in its entirety and signed by the Consultant. Incomplete forms will be rejected and have no effect. Submission of completed notice forms shall constitute compliance with the notice provisions of the New Jersey Contractual Liability Act if such notices are provided within the time limits established by N.J.S.A. 59:13-5.

7.3 **Review of Claims.** The administrative process for review of Claims is sequential in nature and mandatory. The Authority's Claims procedure is composed of the following steps:

Step One: Review by the Authority
Step Two: Non-binding Mediation

Completion of the two (2) steps of Claims review is a mandatory prerequisite to the initiation of litigation by either Party.

7.4 **Compliance with Claim Review Procedure.** Each Claim will begin its review at Step One. A Claim will not proceed to the next step unless the Consultant submits a written objection to the prior step and requests that its Claim proceed to the next step. If at any step in the process a Claim is resolved, the Consultant must sign a full and final release as to any and all matters arising from the Claim.

7.5 **Step One: The Authority's Review.**

7.5.1 The Consultant must provide to the Authority the required forms as required by this Section to comply with the New Jersey Contractual Liability Act in order to begin the Authority's administrative process for the review of Claims. The Consultant shall also submit to the Authority all documentation supporting the Consultant's Claim. The documentation provided to the Authority will serve as the basis for evaluation of the Consultant's position regarding the Claim throughout Step One of the administrative process. The Consultant shall submit additional information upon request of the Authority. No formal action will be taken by the Authority unless and until the Authority receives complete Claim documentation from the Consultant.

7.5.2 Authority Review and Decision. At the option of the Authority, a meeting may be scheduled with the Consultant and the Authority to discuss the Claim. The Authority shall render its decision regarding the Claim in writing within sixty (60) Days of the receipt of the complete supporting documentation or within sixty (60) Days of any meeting with the Consultant and the Authority, whichever is later. This time limit may be extended by mutual agreement of the Parties. The Consultant, within fifteen (15) Days of the receipt of the decision by the Authority, shall accept or reject the Authority's decision in writing. If the Consultant neither accepts nor rejects in writing the Authority's decision within fifteen (15) Days, the Claim will be considered withdrawn from the administrative process and there will be no further administrative remedy available to the Consultant for the subject Claim.

7.6 Step Two: Non-Binding Mediation. If the Consultant rejects in writing the decision of the Authority, there is no further automatic administrative review of the Claim. Within fifteen (15) Days after issuance of the Authority's decision, the Consultant may request in writing that any or all outstanding Claims, which include any or all Claims that have been processed through Step One of the Claim resolution process, and that were neither withdrawn nor considered withdrawn from the process be submitted to Step Two, proceed to non-binding mediation. Such request shall be sent to the Authority. No Claim will proceed automatically to Step Two and the Consultant must make a specific written request that the Claim be elevated to Step Two for review. The cost of non-binding mediation shall be shared equally by the Consultant and the Authority. The mediator shall be selected by the Authority, with the concurrence of the Consultant. The rules for the mediation shall be agreed to by the Authority, the Consultant and the mediator prior to the start of the mediation. If the Parties fail to agree on the rules for the non-binding mediation, the mediation will not proceed and Step Two review will be deemed completed.

8.0 REPRESENTATIONS

The Consultant hereby represents as follows:

- 8.1 The Consultant is financially solvent, able to pay its debts as they become due and possessed of sufficient working capital to complete the services required and perform its obligations under this Agreement.
- 8.2 The Consultant is able to furnish the workplace, tools, materials, supplies, equipment and labor necessary to complete the Services and perform all of its obligations under the Contractual Documents, and has sufficient experience and competence to do so.
- 8.3 The Consultant is authorized to do business in the State of New Jersey and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Consultant and the Services it will be performing.
- 8.4 The Consultant's execution of and performance under this Agreement are within its duly authorized powers.
- 8.5 The Consultant certifies that it has satisfied itself, from its own investigation, of the conditions to be met, and that it fully understands its obligations and agrees that it will not make any Claim for, or have

right to, cancellation or relief from the Contractual Documents without penalty because of its misunderstanding or lack of information.

8.6 The Consultant certifies that all representations made by it in any of the Contractual Documents are true, subject to penalty of law. The Consultant understands and agrees that its knowing or intentional violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact may be cause for termination of this Agreement. The Consultant understands and agrees that the Consultant's violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact shall serve as a legal bar to the Consultant's enforcement of its rights under the Contractual Documents, including any and all Claims at law or equity.

8.7 The Consultant and any firm it has subcontracted has provided to the Authority proof of valid business registration with the Division of Revenue of the New Jersey Department of the Treasury, pursuant to L. 2001, c. 134, as set forth in Appendix E, and the Consultant shall not enter into any subcontract with a firm that has not provided it and the Authority with proof of such valid business registration.

9.0 AUTHORITY'S RIGHTS AND RESPONSIBILITIES

9.1 Authority's Rights

9.1.1 The Authority shall have the right to perform Services and to award contracts in connection with same that are not part of the Consultant's responsibilities under this Agreement.

9.1.2 The Authority shall have the right, in its sole discretion, to accept or reject personnel provided by the Consultant. The Consultant shall make a timely and prompt resubmittal to provide other personnel to replace any that are rejected by the Authority, both at the initial submittal or upon any subsequent rejection or substitution of personnel.

9.1.3 The Authority shall have the right to establish and maintain a Consultant Performance Evaluation Policy and Procedure. The Consultant's performance under this Agreement shall be evaluated by the Authority and shall be a factor used in the technical scoring of the Consultant with respect to any future submission by the Consultant in response to a Request for Proposals by the Authority. This evaluation shall consider, among other things, the Consultant's ability to provide all required Services.

9.1.4 The Authority's approval, acceptance, use of or payment for all or any part of Consultant's Services hereunder shall in no way alter the Consultant's obligations hereunder.

9.1.5 The Authority and the NJ STATE POLICE reserve the right to audit the records of the Consultant and its Subconsultants in connection with all matters related to the Contractual Documents. If, as a result of such audit, the Consultant is discovered for any reason to owe any money or refund to the Authority, the Authority may reduce the Consultant's invoice amount to an amount considered commensurate with the actual services provided.

9.1.6 The Authority and their agents have the right to request, and the Consultant agrees to furnish free of charge, all information and copies of all records, documents or books relating to the provision of Service, which the Authority, or their agents may request. The Consultant shall allow representatives of the Authority and their agent(s) to visit the office(s) of the

Consultant periodically, upon reasonable notice, in order to review any information, records, documents or books related to the Contractual Documents or to otherwise monitor any Services being performed.

9.2 Authority's Responsibilities

The Authority shall, on a timely basis, provide the Consultant with such information in its possession and/or control as may reasonably be necessary for the performance of the Services within the agreed upon time frame.

10.0 MISCELLANEOUS

10.1 Notices. All notices or other communications required under this Agreement shall be in writing and sent by certified mail, return receipt requested, postage prepaid or by FedEx or similar guaranteed overnight courier and shall be deemed to have been given on the Day after depositing in the mail or with such overnight courier. Notices shall be addressed as directed in Appendix A (Special Conditions). Electronic transmission of information may be required, as may be set forth in the Scope of Services.

10.2 In Authority by Reference. This Agreement incorporates by reference, as if set forth herein, all of the Contractual Documents in their entirety, including but not limited to this Agreement and its appendices; the Request for Proposals and the responses thereto; and any Amendments and any addenda.

10.3 Conflict in Terms. In the event of a conflict in terms among the Contractual Documents, the following order shall prevail for purposes of interpretation:

- 10.3.1 Appendix A (Special Conditions)
- 10.3.2 Appendix B (Scope of Services)
- 10.3.3 Agreement (excluding Appendices)
- 10.3.4 Proposals

10.4 No Waiver of Warranties or Legal/Equitable Remedies. Nothing in the Contractual Documents shall be construed to be a waiver by the Authority of any warranty, expressed or implied, or any remedies at law or equity, except as specifically and expressly stated in a writing executed by the Authority.

10.5 Procedural Requirements. The Consultant shall comply with all written procedural instructions that may be issued from time to time by the Authority.

10.6 Governing Law. This Agreement and all other Contractual Documents, and any and all litigation arising therefrom or related thereto, shall be governed by the applicable laws, regulations and rules of the State of New Jersey without reference to conflict-of-laws principles.

10.7 Time of the Essence. All time limits as stated in the Contractual Documents are of the essence.

- 10.8 Entire Agreement and Amendments.** This Agreement and the other Contractual Documents represent the entire and integrated agreement between the Consultant and the Authority and supersede all prior negotiations, representations or agreements, either written or oral. This Agreement and all other Contractual Documents may be amended only by written instrument signed by both the Consultant and the Authority. Should the Consultant at any time find existing conditions that would make modification in requirements desirable, it shall promptly report such matters to the Authority for consideration.
- 10.9 Severability.** In the event that any provision of any Contractual Document shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.
- 10.10 Waiver of Breach.** In the event that any provision of any Contractual Document should be breached by any party and thereafter waived by any party, such waiver shall be limited to the particular breach so waived by any party and shall not be deemed to waive any other breach. Any consent by the Authority to a delay in Consultant's performance of any obligation shall apply only to the particular transaction to which it relates, and it shall not apply to any other obligation or transaction. And any delay in the Authority's enforcement of any remedy in the event of a breach by the Consultant of any term or condition of the Contractual Documents or any delay in the Authority's exercise of any right under the Contractual Documents shall not be construed as a waiver.
- 10.11 Execution in Counterparts.** This Agreement and any other Contractual Document, where applicable, may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.
- 10.12 Unit of Fiscal Integrity.** The NJ State Police (or its agents) may, at its discretion, investigate, examine and inspect the activities of the Consultant and all other parties involved with the Services. The NJ State Police (or its agents) may require the Consultant or any other party involved with the Services to submit duly verified reports, which shall include such information and be in such form as the NJ State Police (or its agents) may require. In addition to the foregoing, the NJ State Police (or its agents) may investigate, examine, inspect, or audit in any manner and at such times as the NJ State Police deems necessary. The Consultant shall include in any and all contracts with Subconsultants a provision requiring such Subconsultants to permit the NJ State Police (or its agents), in its discretion, to investigate, examine, inspect or audit in any manner and at such times as the NJ State Police (or its agents) deems necessary.

APPENDIX A

SPECIAL CONDITIONS

A.1 Notices shall be addressed as follows:

Authority: New Jersey Schools Development Authority
1 West State Street
P.O. Box 991
Trenton, NJ 08625-0991
Attention: Donald Guarriello

Consultant:

APPENDIX B

SCOPE OF SERVICES

A. GENERAL ISSUES

This Scope of Services sets forth the Services required of the Consultant. Capitalized terms in this Appendix B shall have the meaning set forth in Section 1 of this Agreement, or such meaning as the context indicates herein.

B. GENERAL ROLE

Pursuant to Executive Order No. 122 (McGreevey), the Consultant shall be responsible for performing financial statement audits in compliance with generally accepted government auditing standards ("GAGAS"), standards promulgated by the Public Company Accounting Oversight Board ("PCAOB"), Government Accounting Standards Board ("GASB") and Financial Accounting Standards Board ("FASB"), and with all applicable Federal and State laws, rules, regulations and standards, as well as professional standards and requirements mandated by the American Institute of Certified Public Accountants ("AICPA"). These Services shall be required with respect to the NJSDA's financial statements for Fiscal Years ending on December 31st of 2009, 2010 and 2011, with an option, exercisable solely by the NJSDA, for two one-year renewals covering Fiscal Years ending on December 31st of 2012 and 2013. The Consultant shall be responsible for: publicly attesting to the fairness of the NJSDA's financial statements; considering the effectiveness of internal controls as a basis for designing audit procedures and; through the issuance of management letters, making comments and recommendations which, when implemented, would improve the design or operation of internal control systems. The scope of services set forth in this Agreement does not include an audit of the NJSDA's internal control over financial reporting. The Services shall meet all standards required by Executive Order No. 122 (McGreevey).

C. INDEPENDENT AUDITOR SERVICES

C.1 Review of Management Letter. The Consultant shall review with the Audit Committee the annual management letter, and on a regular basis as determined by the Audit Committee shall review with the Audit Committee the following: (i) any audit problems, (ii) any risks of material misstatements due to fraud, (iii) any difficulties with management's response (including restrictions or attempts to restrict the Independent Auditor's activities, restrictions on access to information, and significant disagreements with management), and (iv) the responsibilities, budget and staffing of the NJSDA's internal audit and control functions.

C.2 Audit of Financial Statements. The Consultant shall conduct an audit of the NJSDA's financial statements and shall review such audited financial statements with NJSDA management and the Audit Committee, with particular emphasis on sensitive accounting estimates, reserves and accruals, judgmental areas, compliance with all accounting standards and pronouncements (including recently issued standards and pronouncements), audit adjustments (recorded or not) and other such matters as the Audit Committee or Consultant may deem appropriate.

C.2.1 **Fieldwork.** In auditing the NJSDA financial statements, the Consultant shall plan to complete interim fieldwork by around mid-December of each Fiscal Year. The Consultant shall plan to complete final fieldwork by no later than the 10th day of February following the end of the Fiscal Year of the audit.

C.3 **Meetings.** The Consultant shall meet privately with the Audit Committee at least twice a year, at times to be determined by the Audit Committee, provided that one of the meetings shall be held prior to commencement of the audit, and the other shall be held upon issuance of the final audit report.

C.4 **Final Audit Report.** The Consultant shall produce a Final Audit Report at the conclusion of the audit and review process set forth above, in accordance with a schedule to be determined by the Audit Committee.

C.5 **Consultant Quality Control.** At least once every three years, the Consultant shall provide a report to the Audit Committee describing for the previous year: (i) the Consultant's own internal quality control procedures; (ii) material issues raised by the most recent internal quality control peer review, or by reviews conducted by governmental, professional and/or non-profit authorities (e.g., SEC, PCAOB, AICPA, etc.) as to the Consultant; and (iii) steps taken by the Consultant to address such issues.

APPENDIX C

COMPENSATION – FEE PROPOSAL

{See Attached Sheets}

- C. The Consultant further certifies that there have been no changes in circumstance, conditions or status of the Consultant's prequalification with the Authority since the latest prequalification application was filed by the Consultant with the Authority.
- D. The Consultant certifies that, if applicable, any change in the information provided by the Consultant in its prequalification application currently on file with the Authority will be immediately reported to the Authority.
- E. The Consultant certifies that, if applicable, it shall immediately notify the Authority and the Division of Fiscal Oversight (PO Box 063, Trenton, NJ 08625) if any director, partner, officer, employee of the Consultant or any shareholder owning 5% or more of the Consultant's stock:
 - 1. Is the subject of investigation involving any violation of criminal law or other federal, state, or local law or regulation by any governmental agency; or
 - 2. Is arrested, indicted or named as an unindicted co-conspirator in any indictment or other accusatory instrument; or
 - 3. Is convicted of any crime under state or federal law, or of any disorderly persons offense or misdemeanor involving a business-related offense.
- F. The Consultant hereby waives any objection it might otherwise raise permitting the Unit to investigate, examine and inspect all activities related to the Agreement pursuant to Public Law 2000, Chapter 72, Section 70. The Consultant further releases and holds harmless the Unit, the Authority, and the State of New Jersey. All statements contained in the Consultant's Technical Proposal and Fee Proposal and in this waiver and consent are true and correct, and made with full knowledge that the Authority and the State of New Jersey rely upon the truth of the statements contained in this affidavit in awarding the Agreement.

Sworn and subscribed to before me

this _____ day of _____, 20__.

Signature of Principal

Notary Public of

Print Name of Principal

My commission expires: _____, 20__.

(NO DISCRIMINATION)

I SWEAR AND AFFIRM that the Consultant will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, gender or sexual orientation and has complied and will continue to comply with all State and Federal laws and Executive Orders respecting non-discrimination; AND

(PREVAILING WAGE)

If applicable, I SWEAR AND AFFIRM that the Consultant shall or has complied with the New Jersey Contractor Registration Act, Public Laws 1999, Chapter 238 and the New Jersey Prevailing Wage Act, Laws of 1963, Chapter 150, and all amendments thereto, with respect to the Program and any contracts related to school construction entered into on behalf of the State of New Jersey, except those contracts not within the contemplation of these acts; AND

I SWEAR AND AFFIRM that all statements contained in the Consultant's Technical Proposal and Fee Proposal and this Affidavit are true and correct; and all such statements have been made with full knowledge that the Authority and the State of New Jersey rely upon the truth of the statements contained in this Affidavit in awarding the Agreement.

Sworn and subscribed to before me

this _____ day of _____, 20__.

Signature of Principal

Notary Public of

Print Name of Principal

My commission expires: _____, 20__.

APPENDIX E

INSURANCE CERTIFICATE(S)

{See Attached Sheets}

APPENDIX F

OTHER DOCUMENTATION

{See Attached Sheets}

- 1. BUSINESS REGISTRATION**
- 2. PL 2005, CHAPTER 51 APPROVAL**
- 3. SBE APPROVAL**
- 4. EO129 CERTIFICATION**

ATTACHMENT B

KEY TEAM MEMBER LIST AND RESUME FORMS

NJSDA FORM 201

KEY TEAM MEMBER LIST

FIRM NAME	KEY TEAM MEMBER NAME & TITLE	% OF TIME ON JOB

NJSDA FORM 202

KEY TEAM MEMBERS' RESUMES

{This form should be photocopied as necessary}

KEY TEAM MEMBER NAME: _____

PROJECT NAME; CLIENT NAME; PRIME FIRM NAME	CLIENT CONTACT; PERSON NAME & PHONE #	DESCRIPTION OF PROJECT (including its size and scope) ; DESCRIPTION OF KEY TEAM MEMBER'S ROLE	MONTHS INVOLVED IN PROJECT
1.			
2.			
3.			
4.			
5.			

*** It is on this form that a firm must set forth all of the licenses, registrations, certifications, and other qualifications of any kind, State, Federal, or private, that are necessary for the provision of all of the services required pursuant to this RFP.**

ATTACHMENT C

LUMP SUM FEE PROPOSAL AND LOADED HOURLY RATES

NJSDA FORM 301

LUMP SUM FEE PROPOSAL

The **Total Lump Sum Fee** submitted by

(Name of Proposing Firm)

for **Years 1, 2 and 3 (including Optional Years 4 and 5)** is as follows:

Year 1	Year 2	Year 3	Year 4 (optional)	Year 5 (optional)
\$	\$	\$	\$	\$

I am duly authorized to sign this Fee Proposal, which includes NJSDA Form 301 and NJSDA Form 302, on behalf of the named firm.

Name: _____

(Signature)

(Print)

Date: _____

NJSDA FORM 302

LOADED HOURLY STAFF RATES

Please list appropriate titles:

Job Title	Loaded Hourly Rates* (In \$/Hour)

* **NOTE:** The Loaded Hourly Staff Rate is the rate at which the Authority shall pay for services rendered as set forth in invoices, and should, therefore, include all costs the Consultant intends to recoup through compensation under the Agreement, including, but not necessarily limited to, the following: employee base salary and vacation, holiday, other leave pay, social security contributions, unemployment taxes, workers' compensation, and any other fringe benefits, payroll burden, and per diem, as well as a proportionate amount of company overhead and profit.

In the event that the Authority requires services in addition to those required to be provided by the Consultant as set forth in the Scope of Services attached to the Consultant Services Agreement, the Consultant shall be compensated for such Additional Services based on the Loaded Hourly Staff Rates proposed above and Other Direct Costs which shall be submitted to the Authority for review and acceptance prior to the assignment of additional work.

Name of Proposing Firm:

ATTACHMENT D

MORAL INTEGRITY QUESTIONNAIRE

NEW JERSEY SCHOOL DEVELOPMENT AUTHORITY PROCUREMENT & CONTRACT SERVICES 1 WEST STATE STREET, P.O. BOX 991 TRENTON, N.J. 08625-0991		
<u>CHECK ALL THAT APPLY:</u> <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> PROFESSIONAL SERVICES <input type="checkbox"/> VENDOR/SUPPLIER	CHECK ONE: <input type="checkbox"/> INITIAL <input type="checkbox"/> RENEWAL	<u>FEDERAL TAX ID #</u> _____
BUSINESS LEGAL NAME AND ADDRESS: “DOING BUSINESS AS” NAME(S):	<u>TELEPHONE #</u> _____	DUNS # (if known) _____
	<u>FAX #</u> _____	TYPE OF BUSINESS: <input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> L.L.C. <input type="checkbox"/> OTHER (SPECIFY) _____
	<u>E-MAIL ADDRESS</u> _____	
	<u>WEB ADDRESS</u> _____	
If the books and accounts of the Applicant Business Concern are not at the above address, disclose the address of the location where the books and accounts are kept:	NEW JERSEY COMMERCE & ECONOMIC GROWTH COMMISSION <input type="checkbox"/> SBE REGISTRATION (Attach copy) <input type="checkbox"/> MBE REGISTRATION (Attach copy) <input type="checkbox"/> WBE REGISTRATION (Attach copy)	
<u>CONTACT PERSON</u> Name: _____ Title: _____ _____ Telephone: _____ Fax: _____ E-Mail Address: _____ _____		
NOTE: Accurate, truthful and complete information will help speed the review of your questionnaire and expedite action on your Business Concern’s application. If there is not enough space on this form to give a complete answer, attach additional sheets of paper. Please be sure that each additional sheet includes the Applicant Business Concern’s name and Federal Tax ID Number to identify the page as yours and that you clearly identify the question you are answering. This application will not be sufficient to merit prequalification if you fail to provide additional information if requested to resolve questions about any of the disclosures made in this questionnaire.		

FOR CORPORATIONS, LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS ONLY

Name of Registered Agent in New Jersey: _____

Address of Registered Office in New Jersey: _____

If the Applicant Business Concern is a corporation, provide the following:

Date Incorporated: _____ State in which incorporated: _____

NJ Corporate ID: _____

IF NOT A N.J. CORPORATION, SUBMIT A COPY OF THE CERTIFICATE OF AUTHORITY TO PERFORM WORK IN N.J. AS ISSUED BY THE N.J. DEPARTMENT OF THE TREASURY, DIVISION OF REVENUE, COMMERCIAL RECORDING.

1. How long has the Applicant Business Concern done business under its present name? _____ years
2. List each other name the Applicant Business Concern has done business under in the past ten (10) years:

D/b/a: _____ Dates Name Used: _____

D/b/a: _____ Dates Name Used: _____

D/b/a: _____ Dates Name Used: _____

3. At any time during the past five (5) years, has the Applicant Business Concern shared office space, warehouse space, yard, plant or shop facilities, staff, equipment, telecommunications or other assets with any other business concern? (If yes, disclose the name of the other business concern and provide a description of the sharing arrangement, including the location of the facilities.)
 Yes No

DISCLOSURE OF OWNERS AND KEY PERSONS

“Key Person” means any individual employed by the Applicant Business Concern in a supervisory capacity or empowered to make discretionary decisions with respect to bids and/or contracts within the State of New Jersey. “Key Person” also means any person who owns a beneficial interest of **10%** or more in the business concern, and the managing members of limited liability companies and corporate directors and officers (e.g., president, vice presidents, secretary and treasurer).

For purposes of this questionnaire, “supervisory capacity or empowered to make discretionary decisions” means able to bind the Applicant Business Concern to New Jersey bids and/or contracts of \$50,000 or more and/or authorized to sign checks to make payments of \$50,000 or more in connection with New Jersey contracts.

4. Use this table to enter identifying information for each individual who is a “Key Person” of the Applicant Business Concern. **Identify any entity or business concern that owns a beneficial interest of 10% or more as well. For entities or business concerns, disregard birth date and provide federal tax identification number instead of social security number.**

Name (Last, First, Middle)	Address	Birth Date (MM/DD/YYYY)	Social Security Number*	Position	Ownership %

* Disclosure of Social Security Number is voluntary. However, disclosure will help speed review and action on your application to be prequalified.

AT ANY TIME DURING THE PAST TEN (10) YEARS, HAS THE APPLICANT BUSINESS CONCERN:

5. Been indebted to an individual or entity, other than a bank or other commercial lending institution, in the cumulative amount of \$100,000 or more? (If yes, give details, including the name of each party to the transaction, the date and the amount of indebtedness.)
 Yes No
6. Loaned monies generated by this business concern, in the cumulative amount of \$100,000 or more, to another business concern or individual? (If yes, give details, including the name of each party to the transaction, the date and the amount of the indebtedness.)
 Yes No
7. Had an injunction, order or lien entered against it in favor of any government agency including, but not limited to, judgments or liens based on taxes assessed or fines and penalties imposed by any government agency? (If yes, give details, including name of the government agency, caption, date, case number or docket number, and disposition. Be sure to note any judgments or liens that have not been fully satisfied.)
 Yes No
8. Been a party in any civil litigation or administrative proceeding alleging violation of any of the following: antitrust statutes; racketeering statutes; environmental laws; laws banning workplace discrimination; laws governing wages, hours or labor standards; laws governing the conduct of occupations, professions or regulated industries; or any other law indicating a lack of business integrity or honesty? (If yes, give details, including the nature of the claims and defenses, the caption, date, case number or docket number, and name of the court or agency before which the case is pending or before which it was heard and current status.)
 Yes No
9. Paid a fine or otherwise paid to settle any of the allegations listed in Question 8, whether with or without an admission of responsibility? (If yes, give details, including the caption, date, case number or docket number, and name of the court or agency before which the case was brought.)
 Yes No
10. Been denied any license, permit or other similar authorization required to engage in the business concern's trade(s) or professional discipline(s), or has any such license, permit or similar authorization been suspended or revoked by any agency of federal, state or local government? (If yes, give details, including name of the licensing or permitting agency, caption, date, case number or docket number, and disposition.)
 Yes No
11. Been suspended, debarred, disqualified, denied a classification rating or prequalification or otherwise been declared not responsible to bid on or to perform work on any public contract or subcontract? (If yes, give details, including name of the contracting agency, caption, date, case number or docket number, and disposition.)
 Yes No

12. Been required by an agreement or settlement with any governmental agency (including any school board) to refrain from bidding or proposing on any public contract? (If yes, describe the agreement and give the name of the government agency, date, caption and case number or docket number, if any.)
 Yes No
13. Been required to engage a monitor or independent private sector inspector general (IPSIG) as a condition of being classified or prequalified, or as a condition of any contract award, or as a condition for being permitted to complete a contract? (If yes, describe the agreement and give the name of the government agency, date and the name of the monitor or IPSIG.)
 Yes No
14. Been indicted or otherwise charged as a defendant, or named as an unindicted co-conspirator, alleged to have committed any crime or offense other than a motor vehicle offense? (If yes, give details, including the conduct alleged, the caption, date, case number or docket number, and name of the court before which the case is pending or before which it was heard.)
 Yes No
15. Been convicted, after trial or by plea, of any crime or offense other than a motor vehicle offense? (If yes, give details, including the crime or offense, the caption, date, case number or docket number, and name of the court before which the case was heard.)
 Yes No
16. Filed with, or submitted to, a government agency, or to any employee or representative thereof, any document which contained a false statement or false information? Filing or submission could be by any means, including telefax, e-mail, and any other form of electronic communication. (If yes, explain. Your explanation should include a description of the document(s), the date and the name of the government agency.)
 Yes No
17. Paid anyone other than its own key persons or its own employees commissions or finders fees to obtain contracts or work? (If yes, give details, including a description of the transaction, the name of each party to the transaction, the date and the amount of the commission or finders fee paid.)
 Yes No
18. Given, or offered to give, money, gifts or anything of value, or any other benefit, to a labor official, public official, public employee or public servant with whom the Applicant Business Concern, or any affiliated entity disclosed in this questionnaire, conducted business? (If yes, give details, including the date(s), location(s), a description of the benefit(s) and the name(s) of the individual(s) to whom the benefits were given or offered.)
 Yes No
19. Agreed with another business concern or representative thereof to submit identical or complementary bids, prices or proposals or to otherwise not bid competitively or to withdraw or abstain from bidding or proposing? (If yes, give details, including the date(s), location(s), description(s) of the contract(s) that were the subject of the bid(s), who put the contract(s) out to bid and the name(s) of the other individual(s) with whom the Applicant Business Concern or any affiliated entity disclosed in this questionnaire agreed.)
 Yes No

REQUIRED SUBMITTALS CHECKLIST

- Any additional attachments necessary to support disclosures made in answer to any questions above.**
- Notarized affidavit (see page 4 attached) of the individual submitting this Moral Integrity Questionnaire on behalf of the Applicant Business Concern.**

ATTACHMENT E

EXECUTIVE ORDER NO. 122

{See attached sheets}

**State of New Jersey
Executive Order #122
Governor James E. McGreevey**

[Return to EO Index](#)

WHEREAS, public authorities, agencies and commissions ("authorities") of the State of New Jersey oversee billions of dollars in public funds; and

WHEREAS, the independent auditing process is fundamental to the ability of those state authorities to oversee the public funds, to set appropriate financial policies, to ensure that management maintains effective internal controls and to ensure that financial statements are free from material misstatements; and

WHEREAS, boards of directors, management, internal auditors, and independent auditors each have an important role in the authorities' financial reporting and audit processes; and

WHEREAS, management is responsible for the financial reporting process and internal controls; and

WHEREAS, internal auditors are responsible for assessing whether internal controls established by management are functioning and effective; and

WHEREAS, independent auditors are responsible for publicly attesting to the fairness of financial statements, evaluating the effectiveness of internal controls and, through the issuance of management letters, making comments and recommendations which, when implemented, may improve the design or operation of internal control systems; and

WHEREAS, an audit committee is a fundamental component of an effective financial reporting and audit process, responsible for overseeing the other participants in the process, for proactively ensuring the quality and integrity of the authority's financial reports, and for reporting any audit findings and recommendations to the board of directors for appropriate corrective action; and

WHEREAS, as Governor, I have a responsibility to manage the operations of State government and its various authorities efficiently and effectively to secure public confidence;

NOW, THEREFORE, I, JAMES E. MCGREEVEY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the purpose of this Order, "audit" shall mean an examination of the financial statements of each Authority by a certified public accounting firm in compliance with the generally accepted government auditing standards (GAGAS), issued by the Comptroller General of the United States, as may be periodically revised, and in accordance with all applicable federal rules, regulations, and circulars. Furthermore, for purposes of this Order, "Board of Directors" or "Board" shall mean the governing body of an Authority, and "relative" shall mean a person's spouse, child, parent or sibling residing in the same household or a person's domestic partner as defined in P.L. 2003, c.246 (N.J.S.A. 26:8A-3).
2. The Board of Directors of each Authority shall create an Audit Committee of no less than three

members to assist in the oversight of the financial reporting and audit processes of the Authority. At least two of the members shall be members of the Board. At no time shall a member of the Authority's staff be a member of the Audit Committee.

3. Each of the members of the Audit Committee shall be independent of the Authority. Independence of a member is satisfied only under the following circumstances:
 - a. the member has no financial relationship with the Authority, nor is the member a partner, shareholder or officer of an organization that has a financial relationship with the Authority;
 - b. neither the member nor any member's relative is an employee of the Authority;
 - c. neither the member nor any member's relative is currently employed by, or has in the past three years been affiliated with or employed by, a present or former auditor of the Authority;
 - d. neither the member nor any member's relative receives or has received in any of the past three years direct or indirect compensation from the Authority for consulting, legal or financial services, regardless of the amount received and regardless of whether it is or was paid to the member or to a firm with which the member or any member's relative was associated; and
 - e. the member is in compliance with all standards regarding independence of auditors as may appear in GAGAS or may be established by the United States General Accounting Office.
4. At least one of the Audit Committee members shall have accounting or related financial expertise. All of the members should have knowledge of the Authority's governmental functions, and sufficient time to accomplish the responsibilities of the Audit Committee. In the event the Board does not have sufficient members qualified or available to serve on the Audit Committee, or wishes to broaden the expertise on the Audit Committee, the Board may request that the State Treasurer recommend one or more qualified individuals to sit on the Committee.
5. The Audit Committee shall assist the Board in retaining an independent auditor to conduct an audit of the Authority's financial statements by making a recommendation to the Board after engaging in an auditor selection process described below. The auditor selection process shall be based upon public, competitive bidding principles and shall take place no less than once every five years. The Board shall award the contract based upon the Authority's governing statute and regulations.
6. In order to ensure the independence of the auditor selection process, the Audit Committee shall adhere to the following procedures when making a recommendation to the Board to award a contract to an auditor:
 - a. An evaluation committee shall be established by the Board to conduct the solicitation and evaluation of eligible auditors. The evaluation committee shall consist of no less than three Board members.
 - b. The evaluation committee shall be responsible for drafting requests for proposals (RFPs), soliciting responses to such RFPs, accepting and evaluating proposals, and providing a final written report to the Audit Committee. The evaluation committee may draw upon the expertise of the Division of Purchase and Property to assist it in the drafting of the RFP, soliciting responses to the RFPs, and evaluating proposals. The role of staff of the Authority shall be limited to providing assistance with the RFP design.
 - c. The evaluation committee shall review all responses to RFPs for responsiveness and

responsibility and shall evaluate such responses pursuant to criteria established by the Audit Committee, as described below, and shall rank the responses with respect to such criteria. The evaluation committee shall prepare a written report of such evaluation and shall forward the report to the Audit Committee.

- d. Prior to the solicitation of the engagement of any auditor, the Audit Committee shall establish criteria for the selection of an auditor and may weigh the criteria established. The weighted criteria shall be used by the evaluation committee during the evaluation of proposals. In developing the criteria to be used by the evaluation committee, the Audit Committee shall include the following:
 - i. proposed fee for services;
 - ii. quality of response to RFP package;
 - iii. demonstrated ability and qualifications to conduct governmental audits;
 - iv. quality of relevant service to the governmental entities in previous transactions; and
 - v. familiarity with federal laws, rules and regulations relevant to governmental audits.
 - e. Upon receipt of the evaluation committee's report, the Audit Committee shall review the report and determine whether to re-rank the responses based upon interviews. In such event, the Audit Committee shall interview the firms responding to the RFP and rank the candidates after such interviews based upon the established evaluation criteria.
 - f. The Audit Committee shall make a recommendation to the Board for award of an audit contract.
 - g. The Board of Directors shall review the recommendation and make an award to a firm.
 - h. The Audit Committee shall also issue a report to the State Treasurer within six months of making the recommendation to the Board that sets forth the steps taken to comply with these procedures for selection of an auditor.
7. The auditor selected shall report directly to the Audit Committee or the Board. At no time shall the auditor report to any staff member of the Authority.
 8. At least twice each year, the Audit Committee shall hold a private meeting with the auditor. One of these meetings shall be held prior to commencement of the audit and the other upon issuance of the final audit report. If the Authority also has an internal auditor, the internal auditor shall meet with, and report to, the Audit Committee at least once a year. Additional meetings shall be held upon the request of an Audit Committee member, a Board member, or the auditor, and may include such staff members as the Audit Committee or Board determines necessary.
 9. In carrying out its duties, the Audit Committee shall proactively assist the Board in overseeing: (i) the integrity and quality of the Authority's financial statements; (ii) the Authority's compliance with legal, regulatory, and ethical requirements; (iii) the auditor's performance and ability to perform; and (iv) the performance of the Authority's own internal audit and internal control functions. In addition, the Audit Committee shall:
 - a. review and evaluate audit fees;

- b. where the Committee believes that the auditor's performance is not adequate in quality or independence, recommend such steps as may be necessary to elicit appropriate performance, including replacement of the auditor;
 - c. review the annual management letter with the independent auditor;
 - d. review and approve all engagements of the auditor with the Authority, including non-audit engagements, giving specific consideration to their effect on the independence of the auditor;
 - e. at least once every three years, obtain and review a report of the independent auditor describing for the preceding year: (1) the independent auditor's internal quality control procedures; (2) any material issues raised by the most recent internal quality control peer review, or by reviews conducted by governmental or professional authorities; and (3) steps taken by the auditor to address such issues;
 - f. regularly review with the independent auditor any audit problems, any risks of material statements due to fraud, difficulties with management's response (including restrictions or attempts to restrict the auditor's activities, restrictions on access to information, and significant disagreements with management) and responsibilities, budget and staffing of the Authority's internal audit and control functions;
 - g. review the audited financial statements and interim statements and discuss them with management and internal auditors. These discussions should include a review of particularly sensitive accounting estimates, reserves and accruals, judgmental areas, audit adjustments (recorded or not) and other such matters as the Audit Committee or independent auditor shall deem appropriate;
 - h. review internal control functions such as the planned scope of internal audit reviews; adequacy of staffing; actions to be taken as a result of internal audit findings; the adequacy of compliance with the Authority's Code of Ethics; the effectiveness of electronic data processing procedures and controls and related security programs; and
 - i. recommend policies with respect to risk assessment and risk management.
10. This Order shall apply to all State authorities, commissions, boards, and councils that utilize external auditors to assist them in overseeing public funds.
11. This Order shall take effect immediately, and shall supersede Executive Order No. 26 (Whitman) to the extent that the provisions of that Order governing the selection of accountants are inconsistent with this Order.

GIVEN, under my hand and seal this 23rd day
of July in the Year of Our Lord, Two Thousand
and Four, and of the Independence of the United
States, the Two Hundred and Twenty-Ninth.

/s/ James E. McGreevey

Governor

[seal]

Attest:

/s/ Michael R. DeCotiis

Chief Counsel to the Governor

[Contact Us](#) | [Privacy Notice](#) | [Legal Statement](#) | [Accessibility Statement](#) 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)

Copyright © State of New Jersey, 1996-2008

This site is maintained by the New Jersey Office of Information Technology

ATTACHMENT F

EXECUTIVE ORDER NO. 37

{See attached sheets}

**State of New Jersey
Executive Order #37
Governor Jon S. Corzine**

[Return to EO Index](#)

WHEREAS, the residents of New Jersey are entitled to a government that is effective, efficient, and free from corruption, favoritism, and waste; and

WHEREAS, there are numerous independent and quasi-independent governmental entities in this State commonly referred to as State authorities; and

WHEREAS, those State authorities have capital and operating budgets cumulatively amounting to billions of dollars, but operate outside of the standard structure of the executive branch of State government; and

WHEREAS, though operating outside the standard structure of the executive branch of State government, the State authorities are a part of the executive branch and thus are subject to the Governor's executive powers pursuant to Article V of the New Jersey Constitution; and

WHEREAS, greater coordination of the actions of the State authorities is necessary to ensure that State economic policy is implemented in a uniform and consistent manner, designed to achieve maximum gains in areas such as economic growth and job creation; and

WHEREAS, while strides have been made recently concerning ethics and governance reform at the State authorities, additional measures are needed to make authority operations more efficient, to bring greater transparency to the actions of the authorities, to provide greater clarity concerning the responsibilities of authority board members, and to ensure consistent adherence to appropriate financial controls; and

WHEREAS, it is imperative that when the State authorities award contracts to vendors, such contracts are awarded in a manner that is fair, transparent, and designed to ensure that the authorities are obtaining quality products and services at the best possible value; and

WHEREAS, awarding a contract to the lowest responsible bidder is, in many circumstances, the method of awarding contracts that produces the best economic results; and

WHEREAS, in other circumstances, including procurement of professional services for sophisticated or complex transactions, price is a factor, but is not always the only factor, that should be considered in determining what firm should be awarded a contract; and

WHEREAS, it is nonetheless vital that all contracts be awarded based on price and quality factors, as opposed to favoritism or other impermissible considerations; and

WHEREAS, further guidance in this area would help to ensure that those goals are reached; and

WHEREAS, ultimately, maximization of the potential of the State's authorities is dependent upon qualified, talented, and honest men and women agreeing to serve on authority boards and in authority management positions, and further steps must be taken to recruit such individuals;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority

vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Governor's Office shall conduct periodic policy coordination meetings with the executive directors and chairs of the State authorities. At those meetings, the Office of Economic Growth shall present the State's economic growth strategies and goals to the State authorities. The State authorities are hereby directed to incorporate those strategies and goals into their capital plan development processes. The authorities shall submit their proposed capital plans to the Office of Economic Growth and the Governor's Authorities Unit for review and discussion. Those presentations shall include specific information as to how the authority's capital plan and other expenditures reflect the State's economic growth strategies.
2. On an annual basis, each State authority shall prepare a comprehensive report concerning the authority's operations. The report shall set forth the significant actions of the authority from the previous year, including a discussion of the degree of success the authority had in promoting the State's economic growth strategies and other policies. In addition, the report shall include authority financial statements and identify internal financial controls at the authority that govern expenditures, financial reporting, procurement, and other financial matters and transactions. The report shall contain a certification by the appropriate senior staff member(s) that during the preceding year the authority has, to the best of their knowledge, followed all of the authority's standards, procedures, and internal controls, or, where such certification is not warranted, shall set forth the manner in which such controls were not followed and a description of the corrective action to be taken by the authority. Following approval of the report by the board of directors, a copy of the report shall be submitted to the Governor's Authorities Unit and posted on the authority's web-site.
3. The Governor's Authorities Unit shall continue its ongoing monitoring and oversight of the State authorities, and shall continue to review minutes of authority proceedings for the purpose of recommending gubernatorial veto or approval of those minutes.
4. The boards of directors at the State authorities shall have the following responsibilities, among others, which are designed to ensure that each authority operates in an efficient, transparent, and ethical manner:
 - a. Exercise direct oversight over the chief executive officer, chief financial officer, and other senior management at the authority;
 - b. Ensure that appropriate financial controls are in place at the authority and that an audit committee has been appropriately impaneled to the extent required by Executive Order No. 122 (2004);
 - c. Maintain procurement policies and procedures that are consistent with the provisions of this Order and statutory law concerning competitive bidding;
 - d. Ensure compliance with all legislation that prohibits the awarding of contracts to businesses that have made disqualifying political contributions;
 - e. Establish policies concerning personnel matters, such as job qualifications, hiring practices, and compensation;
 - f. Establish all policies necessary to implement provisions of governing ethics laws, including but not limited to Executive Order No. 36 (2005) and Executive Order No. 41 (2005);
 - g. Require authority management to post notice of authority board meetings and agendas and a

copy of meeting minutes on the authority's web-site; and

- h. Disclose, on an annual basis, any outside business dealings that board members, their employers, or their immediate family members have had with the authority during the previous year, and require senior authority staff to do the same. The disclosures shall be made via certifications submitted by individual board members and senior staff to the board.
5. All procurement contracts to be awarded by State authorities are to be advertised in a way designed to ensure that potentially interested, qualified firms receive appropriate notice of the proposed contract and a fair opportunity to seek it. Each State authority shall promulgate standing procedures for the public advertising of such contracts, which typically would be expected to include advertisement in appropriate publications and on the authority's web-site.
6. The State's Office of Information Technology is hereby directed to develop and establish a single web-site to serve as an additional location at which all State authority procurement contracts shall be posted. Once the web-site is operational, each State authority shall post all proposed procurement contracts on this site. The Office of Information Technology shall develop procedures to facilitate such postings.
7. All procurement contracts are to be awarded by State authorities in accordance with pre-set, transparent procedures established by each authority and reviewed by the Governor's Authorities Unit. For every contract to be awarded, a description of the contract to be awarded as well as any project specifications and related information shall be made available in writing to interested parties. All proposals, bids, or other responses to an advertised contract shall be submitted in written or electronic form and, in cases where the contract is to be awarded to the low bidder, shall be sealed until opened with all other bids.
8. The State authorities may hold pre-bid conferences with interested parties to explain project specifications, to explain the factors on the basis of which the contract will be awarded, and/or to answer any questions. The location, time, and other information concerning the pre-bid conference shall be set forth with the advertised contract or otherwise appropriately advertised prior to the due date for responses.
9. Absent exceptional circumstances, contracts for the purchase of materials, products, supplies, and non-professional services shall be awarded to the lowest responsible bidder that submits a responsive bid. Where a State authority proposes to award such a contract to someone other than the low bidder, it must explain the exceptional circumstances justifying such a decision in the proposed resolution awarding the contract. Where, however, statutory law requires a state authority to award particular types of contracts to the lowest responsible bidder without exception, that law shall continue to apply.
10. The State authorities may award contracts for professional services or technical services on the basis of multiple factors as opposed to simply on the basis of cost. Each authority shall establish a fair and transparent process for awarding such contracts, including setting forth in writing the scoring factors and scoring procedures to be used. The Governor's Authorities Unit shall provide each State authority with sample numerical, quantitative scoring techniques that can be used to evaluate proposals. The scoring system may not be designed to improperly steer a contract or contracts to a particular firm or set of firms. Similarly, project specifications shall not be drafted in such a way as to steer a contract to a particular firm or set of firms. Each State authority shall review its ongoing and open-ended professional services contracts and establish a timetable for periodic advertising and re-evaluation of those contracts in accordance with the terms of this Order.
11. Factors that State authorities may use as a part of this scoring process include but are not limited to the following:

- a. The background, qualifications, skills, and experience of the firm and its staff;
 - b. The firm's degree of expertise concerning the area at issue;
 - c. The rate or price to be charged by the firm;
 - d. The authority's prior experiences with the firm;
 - e. The firm's familiarity with the work, requirements, and systems of the State authority;
 - f. The firm's proposed approach to the issues raised in the project description or specifications;
 - g. The firm's capacity to meet the requirements of the project at issue;
 - h. The firm's references;
 - i. Interviews with prospective firms; and
 - j. Geographical location of the firm's offices.
12. In accordance with State policy, and particularly Executive Order No. 34 (2006), the procurement process shall include efforts to ensure equal opportunity for minority-owned, women-owned, and small business enterprises.
 13. Prior to the receipt of any proposals or qualifications concerning a professional services or technical services contract, the State authority shall establish an appropriately qualified Evaluation Committee to review and score the proposals submitted. The authority shall screen the members of the committee for conflicts of interest and for the appearance of such a conflict. Similarly, members of the authority's board of directors shall not participate, either directly or indirectly, in the procurement process where such a member has a conflict of interest or there is an appearance of such a conflict.
 14. The analysis of relevant factors that leads the State authority to award the contract to a particular firm shall be memorialized, in summary form, in the proposed resolution awarding the contract.
 15. For professional services rendered in connection with bond sales, related financial instruments, and litigation matters, where similar services are expected to be required on numerous occasions over a period of time, the procedures and criteria set forth herein may be used to create a prequalified group or "pool" of potential contract partners for a term not to exceed two years. The establishment of such a pool may not be used to circumvent a genuine competitive process that ensures that quality service is being obtained at the best possible value. The request for proposals/qualifications or similar document advertising the formation of the pool shall make clear the basis on which individual firms will be selected from the pool to perform particular services. That selection may be based, for example, on the price to be charged by the pool member on the particular transaction and the relative strengths of each pool member in view of the particular transaction, through a process of alternating firms, or other justifiable approaches.
 16. The above provisions concerning public advertisement and competitive processes shall not apply in the following limited circumstances:
 - a. Where the contract price is below the bid threshold set forth by the State Treasurer pursuant to N.J.S.A. § 52:34-7(b), unless other state law sets forth a lower bid threshold in a particular

case, in which case the lower threshold shall apply. An authority may not divide a contract into multiple proposed contracts in order to take advantage of this exception and must, if invoking this exception, certify that it has not done so and must maintain a record of that certification. Although this exception permits a State authority to avoid the formal procedures promulgated in accordance with this Order, it is expected that each State authority will advertise and employ a competitive process of some type even for small-dollar contracts to the extent it is feasible and economical to do so. That less-formal process may include obtaining telephonic quotations or obtaining written quotations following more limited advertising. The process used shall be memorialized in the certification referred to above.

- b. In cases of unforeseen life, safety, or health emergencies where the public exigency requires that services or products be purchased immediately, as demonstrated by the memorialized concurrence of three authority officials who have been pre-designated to make such determinations. This exception is a limited one; the State authorities shall make efforts to contract in advance to deal with the types of emergencies that typically arise. In addition, the emergency contract must be limited to purchasing those services or products necessary to mitigate the emergency situation.
 - c. Sole-source awards made when there is only one vendor capable or available to provide the goods or services. Sole-source procurements should be used only in exceptional circumstances and only when necessary. When an authority invokes this exception, the designated authority officer shall write and sign a memorandum of sole-source justification.
 - d. Contracts with the federal or any state government or any agency or political subdivision thereof.
 - e. Where a firm has brought an innovative idea to the authority, a request for proposals cannot be constructed without communicating the new idea, and the procurement would not benefit from a competitive selection process.
 - f. Where State or federal statutory law requires a different process than that set forth herein.
 - g. Where the authority has received authorization from the Governor's Authorities Unit.
17. Where one of the above exceptions is invoked, the proposed resolution concerning the contract shall set forth the justification for invoking the exception and the authority's executive director shall certify that circumstances warrant application of the exception.
18. Senior management at each authority shall annually review authority operations with the specific goal of identifying waste and inefficiencies, and take appropriate remedial steps that shall be reported to the Governor's Authorities Unit.
19. This Order shall apply to all State authorities, namely, all independent State authorities, any board, commission, or agency that is organized in but not of a principal department of State government, and all State authorities that are required to submit their minutes, resolutions, or actions for gubernatorial approval or veto.
20. In view of this Order, the Office of the Attorney General of New Jersey shall conduct a review of the procedures that that office uses in instances when it has a role in the appointment of counsel for the State's authorities.
21. Nothing in this Order is intended to affect the prescribed method of bond sales set forth in Executive

Order No. 26 (1994).

22. State authorities shall continue to comply with the audit requirements of Executive Order No. 122 (2004). Aside from this paragraph, nothing in this Order is intended to affect the provisions of Executive Order No. 122. However, that Order is hereby amended to add the following requirements:
 - a. The required audit shall be conducted annually;
 - b. The audit shall be submitted to the board of directors for its review and, if accepted, approval;
 - c. The audit shall be accompanied by a written certification from both the chief executive officer and the chief financial officer that the financial information provided to the auditor in connection with the audit is, to the best of their knowledge, accurate and that such information, to the best of their knowledge, fairly represents the financial condition and operational results of the authority for the year in question; and
 - d. The final, approved audit shall be posted on the authority's web-site and submitted to the State Treasurer and the Governor's Authorities Unit.
23. It is the policy of this administration to seek candidates for membership on State authority boards from all sectors, including academia, business, and labor. All interested New Jersey residents are invited to send their qualifications to the Governor's Appointments Office, 125 West State Street, Trenton, NJ 08625, for inclusion in the "Talent Bank" being compiled by that office. That office shall continue to seek out qualified, experienced, and honest individuals interested in serving their State in this capacity, while carefully screening applicants for any actual, perceived, or potential conflicts of interest.
24. This Order shall take effect 60 days from the date of its execution, although State authorities are instructed to begin complying immediately with the terms of this Order to the extent possible.

GIVEN, under my hand and seal this day of 26th day of September, Two Thousand and Six, and of the Independence of the United States, the Two Hundred and Thirty-First.

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ Stuart Rabner

Chief Counsel to the Governor

[Contact Us](#) | [Privacy Notice](#) | [Legal Statement](#) | [Accessibility Statement](#) 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)

Copyright © State of New Jersey, 1996-2008

This site is maintained by the New Jersey Office of Information Technology

ATTACHMENT G

NJSDA 2008 ANNUAL REPORT

{See attached sheets}



New Jersey Schools Development Authority



2008 Annual Report



Dear Friends:

The New Jersey Schools Development Authority (SDA) plays a vital role in stimulating the State's economy while building schools that will benefit our children for generations to come.

Working in partnership with the Department of Education, the Economic Development Authority and other state agencies, the SDA manages school construction and disburses funds while utilizing the stringent controls and efficiencies that were put in place by this Administration. I am proud that last summer we enacted \$3.9 billion in new funding – \$2.9 billion for SDA Districts and \$1 billion for grants to Regular Operating Districts – which is serving to benefit our children as well as stimulate the economy and create jobs.

This Annual Report highlights the SDA's accomplishments in 2008, including the completion of 17 schools and the creation of its New Funding Allocation and Capital Plan, which will result in 52 new or renovated schools. Furthermore, this report outlines plans to provide thousands of jobs in 2009 and beyond through the acceleration of projects. Including a share from local communities, the state in 2009 will commit an estimated \$1.7 billion toward modernizing our schools.

This Administration is focused squarely on stimulating the economy and mitigating the effects of this recession on the people of New Jersey. I look forward to continuing our efforts to build schools for our children while putting New Jerseyans back to work.

Sincerely,

JON S. CORZINE

SDA Results 2008	
Schools Completed	17
Rehabilitation Projects Completed	14
New Seats	8,078
Jobs Saved/Created	7,897
Funds Expended	\$911,356,659

Our Mission:

The mission of the New Jersey Schools Development Authority (SDA) is to create a more promising future for the children of New Jersey by providing safe, healthy and sustainable schools that create a positive learning environment and strengthen the community.

We will accomplish this by:

- Developing environmentally safe and sustainable schools
- Effectively managing the fiscal resources provided by New Jersey's taxpayers
- Involving children, teachers, parents, school districts and communities in the development of schools
- Constructing schools that are multi-functional to address the needs of the entire community
- Incorporating design features and technology that enable teachers to teach in the most effective ways
- Setting nationwide best practices for the development of schools

Vision Statement

SDA will be a nationally recognized source of best practices in facilitating the design, development and construction of schools that support academic success in partnership with the communities we serve.

On the cover (clockwise from top): Governor Jon S. Corzine meets students at Jersey City Public School No. 20 on July 9, 2008, shortly before signing legislation authorizing new school construction funding; children sign a steel beam at ceremony at H.B. Wilson Elementary School in Camden; the new International High School in Paterson.

Board Members

Public Members

Barry L. Zubrow
SDA Chairman
Chief Risk Officer, JP Morgan Chase & Company

Karim A. Hutson
Managing Member, Genesis Companies

Joseph McNamara
Director, LECET & Health & Safety

Preston D. Pinkett III
Vice President, Social Investment, Prudential Financial Inc.

Ex-Officio Members

Lucille Davy
Commissioner, New Jersey Department of Education

Joseph Doria
Commissioner, New Jersey Department of Community Affairs

Caren Franzini
Chief Executive Officer, New Jersey Economic Development Authority

David Rousseau
State Treasurer, New Jersey Department of Treasury

New Jersey Schools Development Authority

One West State Street
P.O. Box 991
Trenton, NJ 08625-0991
609-943-5955
Website: www.njsda.gov
Email: schools@njsda.gov

About This Report

The 2008 Annual Report on the operations of the New Jersey Schools Development Authority (SDA) is presented pursuant to the provisions of Executive Order No. 37 (E.O. 37), issued on September 26, 2006 by Governor Jon S. Corzine. The report reviews the SDA's degree of success in promoting the State's economic growth strategies and provides a comprehensive overview of the Authority's operations, highlighting significant actions taken in 2008.

Also included are the Authority's 2008 financial statements and a discussion of its internal financial controls.

The SDA operates under the Educational Facilities Construction and Financing Act (EFCFA) of 2000 and subsequent August 2007 legislative amendments. EFCFA provided initial program funding of \$8.6 billion, and that funding was increased by \$3.9 billion on July 9, 2008 with Governor Corzine's approval of P.L. 2008, c. 39.

Since its inception, the program has been authorized to expend up to \$12.5 billion, comprising \$8.9 billion for SDA (formerly known as Abbott) Districts and \$3.6 billion for Regular Operating Districts (RODs). Of the ROD funding, \$150 million is set aside for vocational schools. Funding is provided through the issuance of bonds by the New Jersey Economic Development Authority (EDA).

For more information, please refer to the most recent Biannual Report on the School Construction Program (for the period April 1 through September 30, 2008). The Biannual Report is available at http://www.njsda.gov/RP/Biannual_Report/2008_2.PDF.



Construction of Elementary School #5 in East Orange, NJ

Table of Contents

MESSAGE FROM LEADERSHIP _____	7
ADVANCING GOVERNOR CORZINE'S ECONOMIC GROWTH STRATEGY _____	8
SIGNIFICANT SDA ACTIONS IN 2008 _____	10
Project Accomplishments _____	10
Organizational Strategies and Initiatives _____	13
<i>New Funding Allocation and Capital Plan</i> _____	13
<i>Design Review process</i> _____	13
<i>ROD Grant program</i> _____	14
<i>Project charters</i> _____	14
<i>Delegation of projects to SDA Districts</i> _____	14
<i>Other initiatives</i> _____	15
Stewardship of Public Dollars _____	15
<i>Statutory initiatives on cost savings</i> _____	15
<i>Cost recovery actions</i> _____	16
<i>Small Business Enterprise/Minority initiatives</i> _____	16
MANAGEMENT'S REPORT ON INTERNAL FINANCIAL CONTROLS _____	18
Governance _____	18
Budgetary and Financial Controls _____	18
<i>Budgetary controls</i> _____	19
<i>Financial controls</i> _____	19
<i>Audits of projects exceeding \$10 million</i> _____	20
CERTIFICATIONS PURSUANT TO SECTION 22C OF E.O. 37 _____	21
CERTIFICATIONS PURSUANT TO SECTION 2 OF E.O. 37 _____	22
EXECUTIVE STAFF AND AUTHORITY INFORMATION _____	23
FINANCIAL STATEMENTS AND SUPPLEMENTARY INFORMATION _____	24

Message from Leadership

The year 2008 was pivotal for the New Jersey Schools Development Authority (SDA). In July 2008, Governor Corzine signed legislation authorizing \$3.9 billion in new funding for the school construction program – \$2.9 billion for SDA Districts and \$1 billion in grants for Regular Operating Districts (RODs). Further, in collaboration with the Department of Education (DOE), the SDA developed its New Funding Allocation and Capital Plan (the Capital Plan), which equitably distributed the \$2.9 billion allocated by the legislation among the SDA Districts, identifying 52 projects based primarily on educational need. The SDA is committed to delivering these projects on schedule and within budget.

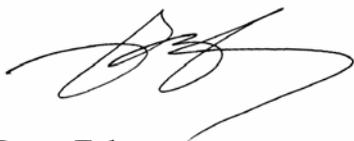
During 2008, the SDA continued to implement processes and controls designed to ensure that school construction projects will be done efficiently and affordably. The SDA continues to refine and improve upon these processes and controls to achieve greater savings for taxpayers. Meeting the Governor's mandate to accelerate schools as well as maintain strong controls requires close collaboration among state agencies. The SDA continues to work with DOE and other agencies to foster the integration of review processes while ensuring quality and efficiency.

The authorization of funding and the development of the Capital Plan established the framework for the SDA's action in late 2008 when, directed by the Governor to advance his Economic Recovery Plan, it moved to accelerate the repair and replacement of schools throughout the state. The objective is twofold – to stimulate economic growth while investing in the future of New Jersey's schoolchildren.

In 2009, the SDA is committing \$1.3 billion toward school construction projects in SDA Districts, which is estimated to save or create 11,000 jobs. An additional \$400 million, including a local share from RODs, is expected to be invested as well, saving or creating approximately 3,500 additional jobs.

The SDA is looking toward two new initiatives to help accelerate projects while improving efficiency. A pilot design-build program will be implemented, allowing for the overlap of construction during the final documentation of design to accelerate project delivery while enhancing oversight and budget controls. Another strategy being investigated is standardization of design components. Consistency of design elements will expedite moving to the construction phase while maintaining high quality standards.

While no program can be a panacea for global economic problems, it is critical for government to invest prudently and quickly to do everything in its power to put people back to work. It is what Governor Corzine has directed, and what this agency will do.



Barry Zubrow
SDA Chairman



Kris Kolluri
SDA Chief Executive Officer

Advancing Governor Corzine's Economic Growth Strategy

On July 9, 2008, Governor Corzine signed into law a \$3.9 billion funding authorization focused on repairing and modernizing the State's school infrastructure. At the time, the Governor spoke of the nation's economic downturn and the opportunity that the program presented to stimulate growth.

Within months, the recession deepened, job losses accelerated, and the need to stimulate the economy through investment in public infrastructure projects further crystallized.

On October 16, 2008, the Governor outlined an economic assistance and recovery plan for New Jersey, with investment in public infrastructure projects as its cornerstone. At his direction, the SDA developed a plan in December to accelerate the repair and replacement of schools throughout the state that would stimulate economic growth as well as invest in the future of New Jersey's schoolchildren.

Unemployment figures underscore the importance of the SDA's efforts. New Jersey lost 85,700 total jobs, including 14,600 construction jobs, from December 2007 through December 2008. Experts anticipate that the current recession, which started in December 2007, will last at least through the end of 2009, making it the longest and deepest recession since World War II.

To counter the economic downturn, New Jersey is using existing financial resources to create aggregate demand and employment opportunities for its residents while investing in the long-term viability of our infrastructure.

The SDA's New Funding Allocation and Capital Plan, adopted by the SDA Board in July 2008, served as the basis for responding to the Governor's October mandate to accelerate work. Developed in collaboration with the DOE, it equitably distributed the \$2.9 billion allocated by the legislation among the SDA Districts, identifying 52 projects. The remaining \$1 billion has been approved by legislation to fund the State share for projects in RODs, prioritized to address the most critical operational building needs, including health-and-safety concerns. With a share from local communities, the size of the total school construction program is \$5.4 billion.

The SDA produced a plan for 2009 to advance, into preliminary or full-scale construction, at least 22 of the 52 projects from the 2008 Capital Plan, along with five projects from the prior funding allocation. The remaining projects will advance in 2010 and shortly thereafter. The list for 2009 contains schools such as the Lorraine Place Elementary School in Keansburg. This \$43 million project is significant because, to cope with long-term overcrowding, trailers have been used to house students there since 1988. Today, 11 trailers remain on site. Additional accelerated projects will advance to replace the antiquated Oliver Street and South Street schools in Newark. Oliver Street Elementary School, built in 1869, is one of Newark's most crowded schools. Classes are conducted in substandard spaces, including hallways, the auditorium's balcony and closet-sized rooms.

The SDA's acceleration plan calls for committing \$1.3 billion for school projects in SDA Districts. It includes \$775 million in statewide project expenditures within the 2009 calendar year.

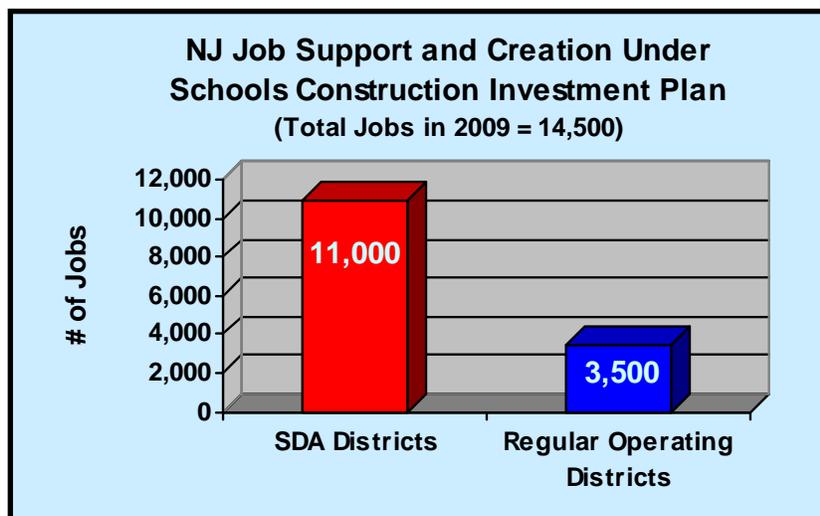
In addition, approximately \$400 million is expected to be invested in ROD school projects, including State grants and a share from local communities. Under this program, the State's share for ROD projects will be at least 40 percent, with the remaining 60 percent funded by local districts. In March 2009, grants totaling \$180 million were announced, with more awards to follow. Awards are contingent on either local budget approval or voter approval of the local share.

The school construction program's overall stimulus effects have been analyzed by Rutgers University. It found that investing \$5.4 billion in the state's schools could support or create more than 46,000 jobs.

The SDA will move prudently in expediting Authority-managed projects. The SDA and DOE collectively engaged in a design review process

beginning in 2008 to ensure taxpayer dollars are spent on appropriately sized schools and toward meeting current educational needs. The SDA continues to work with DOE and other agencies to foster the integration of governmental review processes while ensuring fiscal prudence and quality.

Planning for two key initiatives began in late 2008. A pilot design-build program will be implemented. The design-build process assures a single source of accountability for both design and construction, allowing for the overlap of construction during the final documentation of design. Another strategy being investigated for implementation is the standardization of design components. These strategies will expedite moving to the construction phase without sacrificing quality.



Significant SDA Actions in 2008

The SDA entered a new phase in December 2008 with Kris Kolluri taking over the position of Chief Executive Officer, succeeding Scott Weiner, who had guided the program since February 2006. While serving as Commissioner of the New Jersey Department of Transportation (NJDOT) and as Chairman of NJ TRANSIT, the New Jersey Turnpike Authority and the South Jersey Transportation Authority, Kolluri was responsible for overseeing 17,000 employees, more than \$3.6 billion in capital funds and over \$2 billion in operating funds.

The following is a summary of accomplishments and initiatives at the SDA:

Project Accomplishments

The year 2008 saw the completion of 17 schools, benefiting nearly 15,000 New Jersey students. The total included 11 schools in SDA Districts and six in Regular Operating Districts.

Overall, New Jersey's school construction program has completed 592 projects in SDA Districts since the program's inception in 2001 through December 31, 2008. These completed projects are categorized as follows: 46 new schools; 41 extensive additions, renovations and/or rehabilitations; 21 other rehabilitation projects; 354 health and safety projects; 127 Section 13 Grants for SDA District-managed projects under the former \$500,000 cap; and three demonstration projects. Demonstration projects, funded and overseen by the SDA but managed by a municipal redevelopment entity and redeveloper, are designed to serve as a cornerstone of local revitalization efforts. In addition, 19 ROD projects managed by the SDA have been completed, and Section 15 grants to RODs have provided funding for school facilities projects in 1,430 schools throughout New Jersey's 21 counties.



CEO Kris Kolluri joins officials at a ribbon-cutting ceremony for Camden's Early Childhood Development Center.

Among the 17 school completions in 2008 were nine new buildings (including one demonstration project) and eight extensive additions, renovations and/or rehabilitations. In addition, the SDA completed 14 other rehabilitation projects. All told, work on SDA projects is estimated to have created or supported approximately 8,000 jobs in 2008.

The SDA also had 17 projects in construction as of December 31, 2008, along with three demonstration projects. The SDA had an additional seven projects ongoing in RODs.

Furthermore, planning and preconstruction activity is underway for the 52 projects approved in the 2008 New Funding Allocation and Capital Plan.

In 2008, the SDA and DOE began implementing the next phase of a joint initiative to address projects requiring immediate repair in the state's special-needs districts. Though the DOE and SDA have approved and funded emergent projects previously, the need existed to implement a new process to ensure that SDA Districts could evaluate all their facilities and advance potential emergent projects. Concurrent with that effort was the establishment of a process to evaluate these requests and expedite funding as necessary.

2008 SDA Project Accomplishments			
SDA Districts			
		Total Costs	New Seats
New School	7 Projects	\$438,258,592	4,430
<ul style="list-style-type: none"> Camden - Early Childhood Development Center #25 Elizabeth - Dr. Antonio Pantoja School #27 Elizabeth - Juan Pablo Duarte – José Julián Martí #28 Neptune - Midtown Community Elementary School Newark - Central High School Paterson - International High School Academy Plainfield - Emerson Elementary School 			
New School – Demonstration Project	1 Project	\$40,782,264	1,400
<ul style="list-style-type: none"> Trenton - Daylight-Twilight Alternative High School 			
Extensive Addition, Renovation and/or Rehab	3 Projects	\$107,194,795	679
<ul style="list-style-type: none"> Burlington City – High School East Orange – Mildred B. Garvin MicroSociety School Paterson – No. 24 Elementary School 			
Other Rehabilitation Project	1 Project	\$10,360,015	N/A
TOTAL	12 Projects	\$596,595,666	6,509
SDA-Managed ROD Projects			
New School	1 Project	\$24,620,247	526
<ul style="list-style-type: none"> Barnegat - Joseph T. Donahue Elementary School 			
Extensive Addition, Renovation and/or Rehab	5 Projects	\$74,524,286	1,043
<ul style="list-style-type: none"> Barnegat - Cecil S. Collins Elementary School Barnegat - New High School addition Barnegat - Russell O. Brackman Middle School Cumberland Regional – High School Greater Egg Harbor – Oakcrest High School 			
Other Rehabilitation Project	0 Projects	\$0	N/A
TOTAL	6 Projects	\$99,144,533	1,569
SDA District Grant Projects			
Other Rehabilitation Project	13 Projects	\$4,764,432	N/A
GRAND TOTAL	31 Projects	\$700,504,631	8,078

There were 141 projects identified as needing immediate repair due to health-and-safety concerns in SDA Districts. About 30 percent of these emergent projects address roof repair or replacement. Other problems identified and being addressed include: deteriorating facades; water infiltration; heating and cooling system issues; and plumbing, electrical, mechanical and security systems.

Of the 141 projects identified, 45 grants for 51 conditions were immediately delegated to the districts for management. The SDA has made grant offers to districts for these projects and is working with the districts to obtain the necessary documentation to proceed with grant awards for the remaining projects.

The SDA currently has consultants, competitively hired through a task-order procurement, developing scopes of work for the remaining 96 emergent conditions, located in 82 schools in 23 districts. Upon completion of this scope analysis, additional projects are expected to be delegated to the districts.

Moving forward, the SDA Districts will submit potential emergent projects to the DOE for consideration as they arise. The SDA maintains a program reserve to address such emergent conditions and other unforeseen events.

The SDA expended \$911,356,659 in 2008. When leveraged with shares from local communities for ROD grant projects, the school construction program invested \$1,190,820,189 statewide and generated more than 10,000 jobs.

For 2009, the SDA is projecting the completion of 18 schools across New Jersey. The total includes 13 schools in SDA Districts, three schools in RODs and two demonstration projects.

2008 Investment in School Facilities Projects		
	Total Project Costs	Jobs Created/Saved
SDA-Managed Projects	\$520,619,626	4,511
SDA Demonstration Projects	\$198,489,560	1,720
SDA District Grant Projects	\$5,289,560	46
ROD Grant Projects		
SDA Grant Expenditures	\$186,958,253	1,620
District Local Share*	\$279,463,530	2,421
TOTAL	\$1,190,820,189	10,318
<p><i>*For ROD Grant projects, SDA funds up to 40% of the eligible costs. The District local share represents estimated expenditures to account for the other 60%.</i></p> <p><i>Note: Total jobs created/supported are calculated based on the multiplier provided in a study by Rutgers University's Edward J. Bloustein School of Planning and Public Policy titled "Economic Impact of Planned School Construction Projects in New Jersey." For the purposes on this calculation, "dollars invested" is defined as "expended."</i></p>		

Organizational Strategies and Initiatives

New Funding Allocation and Capital Plan

The SDA has worked in concert with DOE to create an equitable plan for distribution of new funding authorized in the July 2008 legislation, which allocated \$2.9 billion for projects in SDA Districts and \$1 billion in RODs. The New Funding Allocation and Capital Plan for SDA Districts identified 52 projects to be funded for construction, including 26 new school projects and 26 others that previously had been deferred due to a funding shortfall. The plan was necessary to identify which school projects could be built with proposed new dollars, and to establish reserves to ensure completion of each project. With the need in SDA Districts far exceeding the current availability of state funding, the State endeavored to address those schools with the most critical needs in a fair and equitable manner.

The 26 new school projects were derived from a statewide prioritization plan that was created by DOE and based on educational need. The department initiated its planning based on Long Range Facilities Plans (LRFPS) submitted by the 31 SDA Districts.

The DOE, in collaboration with the SDA and districts, worked to identify the top three to five priority projects in each district. In April 2008, DOE performed a statewide analysis of these top-priority projects, ranking the projects based on educational need. The SDA and DOE then performed a final ranking, incorporating additional factors in the analysis, including recognition of projects that had received a minimum of \$3 million of previous State investment.

The plan allocated \$970 million to complete the April 2007 deferred projects and \$1.7 billion for the 26 newly funded projects. A reserve of \$300 million was created for adjustments to planning estimates and to provide flexibility for addressing emergent projects and unforeseen events.

In the interest of equity, every district received at least one project (with the exception of Neptune, whose plan is completed). Generally, no district received more than four projects.

Design Review process

Upon adoption of the New Funding Allocation and Capital Plan, it became apparent that a review of adopted projects was necessary. Many projects had designs that were three years old or more. In that time, many districts had seen student population shifts and established new educational program priorities. A process was required to ensure taxpayer dollars were spent on appropriately sized schools and current educational need.

At meetings with superintendents in August 2008 involving the SDA and DOE, presentations were held describing the process to be implemented, including DOE's review of educational program alignment, the SDA's planning process, and SDA's review of designs to identify cost containment opportunities.

The SDA then scheduled meetings with DOE and every SDA District to discuss individual projects. During these meetings, the Districts were informed of the review status of each of their projects in the Capital Plan. The outcome of these meetings varied based upon district-specific issues, including changes to educational program, updates to the Districts' Long Range Facilities Plan and the use of findings from the design reviews.

Follow-up analysis is continuing in an effort to balance the need for these schools to be built quickly yet cost-effectively. Additional planning and project team meetings are ongoing to finalize design and program needs and advance the projects.

ROD Grant program

Recognizing that the need for safe and modern schools goes beyond the 31 SDA Districts, the Legislature included \$1 billion in the new funding legislation to resume the ROD grant program. As with the original program, which was fully spent or obligated as of 2005, the new program will provide grants of at least 40 percent of eligible costs. Grants will be disbursed by the SDA.



Governor Corzine announces \$180 million in grant funding for Regular Operating Districts

In contrast to the original grants, which were disbursed on a first-come, first-served basis, the legislation mandated a prioritization process similar to that used in SDA Districts. The DOE established the process and oversees the approval of projects for grants. In March 2009, grants totaling \$180 million were announced, with more awards to follow. Awards are contingent on either budget approval or voter approval of the local share.

Project charters

The Project Charter Initiative has improved accountability at the SDA. Project charters, developed by Project Teams, formally establish the budget, scope and schedule of a project. The project team concept ensures collaboration, including all stakeholders.

The Project Charter initiative enhances SDA Board oversight. Board members are apprised of costs and schedules at the outset and must approve them before design and construction can begin. Board approval is required on significant variances, as determined by the SDA Operating Authority. Board notification of all other changes is provided as well. Variance reports are made available to the public before being discussed by the SDA Board at a public meeting.

As of December 31, 2008, the SDA Board has approved 54 project charters for fully-funded projects in SDA Districts and 13 in RODs. The SDA Board receives monthly reports on variances to project budgets or schedules.

Delegation of projects to SDA Districts

Another SDA initiative has been the development of rules and regulations for the delegation of management of school facilities projects to SDA Districts, pursuant to the August 2007 legislation establishing the SDA. Regulations, to be coordinated with related DOE regulations, will be entering the public comment period shortly. Considerations that might influence the decision to allow an SDA District to manage a school facilities project were identified by an internal working group. There was consensus on three key assumptions:

- Facilitating the delegation of management responsibility from the SDA to the districts, to the greatest extent possible, would be a core goal.
- District capacity would be assessed through a two-tiered approach first considered as a whole, then on a project-by-project basis.
- Decisions to delegate authority would be based on formal applications from a district requesting such authority.

The SDA process will be applied to districts that are preliminarily deemed eligible by DOE for consideration to manage projects.

Also, the Authority is currently developing a variety of training programs designed to enhance a District’s capacity for project management. The programs will use in-house expertise and potentially Web-based and formal seminars hosted by experts in various technical fields.

Other initiatives

The SDA is developing the SDA’s Real Estate Practices Manual. The manual is being developed to clearly describe the steps and processes that the SDA follows before a school project moves into design and construction, focusing on the site planning, site selection, preconstruction and land acquisition phases.

The SDA’s focus continues on building high-performance, sustainable schools through its 21st Century Schools Design Manual.

• ***“Just as a grade school can provide a solid foundation for a child’s lifelong love of learning, green design can serve as an essential framework for a new generation of school-construction projects.”***

• *Former DEP Commissioner Lisa P. Jackson (current EPA Administrator) on the award of LEED Gold to Neptune’s Summerfield Elementary School.*

Stewardship of Public Dollars

Statutory initiatives on cost savings

The July 2008 new funding legislation requires the SDA to conduct studies on the potential cost savings in the school construction program (both SDA and non-SDA districts) through the use of standardized design elements, components and construction materials. Such study “shall include, but not be limited to, consideration of the opportunities to save design time, facilitate construction inspections, and ensure maintenance protocol ease through use of standardized design elements, supplier agreements and maintenance protocols.” The SDA is reporting its findings to the Governor, the Joint Budget Oversight Committee, the President of the Senate, the Speaker of the General Assembly, and the Commissioner of Education by April 2009 as required.

The Authority entered into a Memorandum of Agreement with Rutgers University to provide an analysis of the potential for savings and efficiencies through the use of supplier agreements. In retaining Rutgers, SDA has engaged the services of a major research institution with significant

experience and in-depth knowledge of supply chain dynamics.

The Authority competitively procured an architectural firm to analyze the value of using standardized design elements, components, and construction materials.

The SDA is currently researching numerous published studies of operations and maintenance cost analysis. This research, along with the 2008 New Jersey Institute of Technology Memorandum of Agreement for development of an Operations and Maintenance guidance document, will establish a foundation for a maintenance protocol.

Cost recovery actions

The SDA has continued to initiate cost recovery actions to protect the interests of New Jersey taxpayers. Cost recovery actions may be pursued where design errors and omissions have occurred, where delays are caused by contractors, and to recover environmental remediation costs. Also, change orders are screened for potential liability as a matter of standard operating procedure and referred to the Office of Chief Counsel, when appropriate, for possible cost recovery.

Significantly, SDA initiated legal action in June 2008 against the project management firm for Neptune's Midtown Community Elementary School for \$15 million arising from the growth and remediation of mold. The SDA recently settled an action initiated in 2007 and recovered over \$2 million for errors that occurred at the Mount Vernon Elementary School in Irvington.

Recovery of funds from responsible parties for the costs of environmental remediation of project sites remains an additional area of potential cost recovery for which the Authority is currently initiating actions. Over the past year, SDA has recovered damages in two matters totaling nearly \$1 million.

Small Business Enterprise/Minority initiatives

The SDA worked diligently to ensure that at least 25 percent of all contracts are awarded to Small Business Enterprises (SBEs). The SDA has consistently exceeded that target. Total SDA contracts for the reporting period equaled \$184,444,350. Total contract dollars awarded to SBE contractors for the period were \$81,160,139, representing 44 percent of the overall amount awarded.

As for Minority-owned Business Enterprises, contract dollars totaled \$3,388,820, representing 1.8 percent of the amount awarded program-wide to primary and subcontractors. There were 11 contracts totaling \$1,174,056 awarded to African-American-owned firms (0.6 percent of overall contract dollars). Also, seven contracts totaling \$1,640,595 were awarded to Hispanic-owned firms (0.9 percent), and nine contracts totaling \$574,169 went to Asian-owned firms (0.3 percent).

Small women-owned and minority women-owned businesses were awarded 36 contracts totaling \$5,626,241, or 3.1 percent of overall contract dollars.

Regarding efforts to enhance minority participation in the workforce on SDA projects, as an aggregate, the SDA exceeded targets for percentages of workforce hours performed by minority workers. Hours for minority workers were 26.2 percent of the total, compared to the average target of New Jersey's various counties, which is 21 percent. However, work hours for females on SDA projects fell below county goals. The SDA will continue to explore creative ways to attract minorities and women to participate on SDA projects.

Management's Report on Internal Financial Controls

Governance

Pursuant to P.L.2007, c.137, s.3 (N.J.S.A. 52:18A-237) and Executive Order 122 (2004), the New Jersey Schools Development Authority (the "Authority") is required to undergo an annual financial statement audit. The Authority's 2008 financial statements have been audited by Ernst & Young LLP, an independent accounting firm. In performing their audit, Ernst & Young considered the Authority's internal control structure in determining the extent of audit procedures to be applied. In addition, Ernst & Young was given unrestricted access to all financial records and related data of the Authority, including minutes of all Board and Audit Committee meetings. Ernst & Young has issued an unqualified opinion on the Authority's 2008 financial statements, which audit report, dated February 25, 2009, is presented on page 1 of the 2008 financial statements.

The Authority is responsible for both the accuracy of the financial data and the completeness and fairness of its presentation, including all disclosures. The financial statements are prepared in accordance with accounting principles generally accepted in the United States. In preparing the financial statements, management makes informed judgments and estimates as to the expected effects of events and transactions that are currently being reported.

The Audit Committee assists the Board in fulfilling its oversight responsibilities for the integrity and quality of the Authority's financial statements, the financial reporting process, the system of internal controls, the external auditor's qualifications and independence, the performance of the Authority's internal audit function and external auditors, the audit process and the Authority's process for monitoring compliance with laws, regulations and ethical requirements. The Audit Committee periodically meets with management, as well as the SDA's independent accountant and internal auditor. Both the independent accountant and the internal auditor have unrestricted access to the Audit Committee. For a portion of at least two meetings a year, the Audit Committee meets separately with the independent accountant to discuss internal controls and other financial matters.

The Authority's Governance & Compliance Division administers the "Status of Audit Reports" and collects management responses to internal and external audit findings, which report is disseminated and reviewed with the Audit Committee bi-monthly. In addition, the internal auditors review these responses as part of a risk assessment to identify future audits. Management considers the internal and external auditors' recommendations concerning the Authority's internal controls and takes appropriate responsive action. Though corrective actions have been taken in response to certain internal control deficiencies, further management action is required to appropriately address other internal control areas. Management views these kinds of remedial actions as part of a long-term continuous process to improve internal controls and efficiencies.

Budgetary and Financial Controls

The Authority maintains a system of internal controls to provide reasonable assurance that transactions are executed in accordance with management's requirements and authority,

responsibilities are appropriately segregated, the financial statements are prepared in accordance with accounting principles generally accepted in the United States, and the assets of the Authority are properly safeguarded. Since internal controls are designed to provide reasonable, but not absolute, assurance that these objectives are met, there are inherent limitations in the effectiveness of any system of internal controls. The concept of reasonable assurance generally recognizes that: (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management. These internal controls are subject to continuous evaluation by the Authority's management.

Budgetary controls

The Authority maintains budgetary controls to ensure operating expenditures do not exceed the annual level approved by the Board. An actual versus budget analysis of accounts is performed monthly and the results are summarized and presented to the Audit Committee in a monthly report. The Authority may also allocate a portion of its operating budget for various internal capital projects such as expenditures for leasehold improvements, and the acquisition of equipment, computer software, furniture and fixtures. The Authority's *Capitalization & Depreciation* policy prescribes when capitalization of an asset is appropriate.

In addition, the Authority develops and maintains comprehensive project budgets for each of the school facilities projects that it manages. These project budgets include all financial aspects of a project and are reviewed and revised monthly, as necessary. The data obtained in the monthly reforecasting sessions is compared to the Board-approved Capital Plan and then summarized and presented to the Audit Committee in a monthly report. The Authority is further enhancing its project management capabilities through the development and implementation of Primavera Expedition, a project management software application. Among other things, this system will be used to manage project budgets and schedules.

Financial controls

The Authority maintains financial controls through the use of an integrated accounting and budgeting system which enables it to access, analyze, and report financial data. Furthermore, the Authority utilizes financial reporting software to: (1) efficiently and effectively manage its internal financial operations by automating various financial reporting processes; (2) identify financial trends; and (3) generate accurate and timely financial data. These capabilities are continuously improved to meet new information needs.

To ensure the adequacy of the Authority's internal controls, policies and procedures are issued and periodically updated. These policies and procedures include a Code of Ethics to foster a strong ethical climate, and are communicated to the Authority's employees as deemed appropriate. The Authority has established a Policy Committee, comprised of executives and senior management, which is responsible for developing, reviewing and disseminating the Authority's policies and procedures. These policies and procedures provide a system of internal controls and accountability which is designed to safeguard the Authority's assets. The Authority's internal auditors periodically review the Authority's adherence to internal control policies and procedures.

The Authority has issued an *Operating Authority* policy approved by the Board that designates those persons who are required (either generally or in specific transactions) to approve contracts and/or to

execute documents legally binding on the Authority, or to sign checks and approve disbursements on behalf of the Authority. Several other policies and procedures (or other analogous documents, including, but not limited to: policy notices; bulletins; standard operating procedures; etc.) have been implemented in the areas of accounting, accounts payable, procurement and project management.

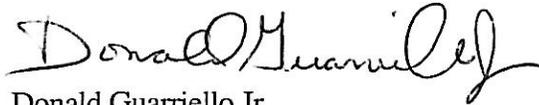
Audits of projects exceeding \$10 million

The program's new funding legislation (P.L. 2008, c. 39) directs the SDA, in consultation with the State Comptroller, "to cause an audit to be conducted of any school facilities project that has a State share that exceeds \$10 million."

This significant initiative is in the initial development stages. Collaboration with the Comptroller has been established on this initiative to ensure the legislation's intent is met. The SDA has and will continue to provide the necessary information to ensure that the statutory directive is met and that all projects exceeding \$10 million are appropriately subject to audit.

Certifications Pursuant To Section 22c Of E.O. 37

I certify that, to the best of my knowledge, the financial information provided to the Authority's independent auditors in connection with their audit of the 2008 financial statements is accurate, and that such information fairly presents the financial condition and operational results of the Authority as of December 31, 2008 and for the year then ended.



Donald Guarriello Jr.
Chief Financial Officer

I certify that, to the best of my knowledge, the financial information provided to the Authority's independent auditors in connection with their audit of the 2008 financial statements is accurate, and that such information fairly presents the financial condition and operational results of the Authority as of December 31, 2008 and for the year then ended.



Kris Kolluri
Chief Executive Officer

Certifications Pursuant To Section 2 Of E.O. 37

In accordance with Executive Order 37 issued by Governor Jon S. Corzine on September 26, 2006, please find enclosed the New Jersey Schools Development Authority's (the "Authority") 2008 comprehensive report of Authority operations (the "2008 Annual Report"). This report highlights the significant actions of the Authority for the year ending December 31, 2008, including the degree of success the Authority had in promoting the State's economic growth strategies and other policies during the year.

The report of independent auditors, issued by Ernst & Young LLP as of February 25, 2009, is included within the financial statements section of the 2008 Annual Report. The completion of the audit report fulfills the Authority's requirements under Executive Order 37 and the audit requirements of Executive Order 122 (2004).

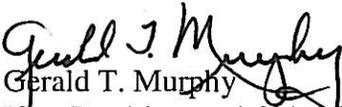
Executive Order 37 Section 2 Certifications:

I, Kris Kolluri, certify that from December 1, 2008, the start of my tenure as Chief Executive Officer of the New Jersey Schools Development Authority, to December 31, 2008, the Authority has, to the best of my knowledge, followed all of its standards, procedures and internal controls.



Kris Kolluri
Chief Executive Officer

I, Gerald T. Murphy, certify that from January 1, 2008 to November 30, 2008, the 2008 time period before Kris Kolluri joined the New Jersey Schools Development Authority as its Chief Executive Officer, the Authority has, to the best of my knowledge, followed all of its standards, procedures and internal controls.



Gerald T. Murphy
Vice President and Chief Operating Officer

Executive Staff and Authority Information

Kris Kolluri, Chief Executive Officer

Thomas J. DiGangi Jr., Chief of Staff

Regina M. Bleck, Vice President, Project Management

Donald R. Guarriello Jr., Vice President & Chief Financial Officer

Jane F. Kelly, Vice President, Corporate Governance & Compliance

Gerald T. Murphy, Vice President & Chief Operating Officer

Janesa Urbano, Vice President & Chief Counsel

Andrew D. Yosha, Vice President, Program Management & Planning

Schools Development Authority Offices

Headquarters

1 West State Street
Trenton, NJ 08625-0991
609.943.5955

Trenton Regional Office

32 East Front Street
Trenton, NJ 08625-0991
609.292.5788

Northern Regional Office

375 McCarter Highway
Newark, NJ 07114
973.648.8335



Website: www.njsda.gov

Email Address: schools@njsda.gov

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
(a component unit of the State of New Jersey)

FINANCIAL STATEMENTS AND SUPPLEMENTARY INFORMATION
For the Year Ended December 31, 2008

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Financial Statements and Supplementary Information

For the Year Ended December 31, 2008

Table of Contents

Report of Independent Auditors	1
Management’s Discussion and Analysis	2
Statement of Net Assets and General Fund Balance Sheet.....	8
Statement of Activities and General Fund Revenues, Expenditures and Changes in Fund Balances	9
Notes to Financial Statements.....	10
Required Supplementary Information	
Schedule of Funding Progress - Post-Employment Healthcare Benefit Plan	31

Report of Independent Auditor

Members of the Authority
New Jersey Schools Development Authority

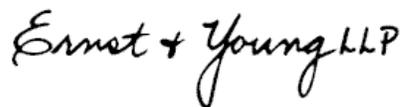
We have audited the accompanying basic financial statements of the New Jersey Schools Development Authority (the Authority), a component unit of the State of New Jersey, as of December 31, 2008 and for the year then ended as listed in the table of contents. These financial statements are the responsibility of the Authority's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Authority's internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the New Jersey Schools Development Authority as of December 31, 2008, and the changes in its financial position for the year then ended in conformity with U.S. generally accepted accounting principles.

As discussed in Note 9, during 2008, the Authority adopted Governmental Accounting Standards Board Statement No. 49, *Accounting and Financial Reporting for Pollution Remediation Obligations*.

Management's discussion and analysis and the schedule of funding progress on pages 2 to 7 and page 31 are not a required part of the financial statements but are supplementary information required by the Governmental Accounting Standards Board. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this required supplementary information. However, we did not audit the information and express no opinion on it.



February 25, 2009

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Management's Discussion and Analysis

For the Year ended December 31, 2008

This section of the New Jersey Schools Development Authority's (the "Authority" or "SDA") annual financial report presents our discussion and analysis of the Authority's financial performance during the fiscal year ended December 31, 2008. This management discussion and analysis should be read in conjunction with the Authority's financial statements and accompanying notes.

Background

The SDA was established on August 6, 2007 to replace the New Jersey Schools Construction Corporation ("SCC") pursuant to reform legislation (P.L.2007, c.137) enacted by Governor Jon S. Corzine. As of the date of the legislation, the SCC was dissolved and all its functions, powers, duties and employees were transferred to the SDA. Organizationally, the Authority is situated in, but not of, the New Jersey Department of the Treasury.

The School Construction Program is the largest public construction program undertaken by the State of New Jersey ("State") and represents one of the largest school construction programs ever undertaken in the nation. The program was initiated in response to the New Jersey Supreme Court's decision in Raymond Abbott et al. v. Fred G. Burke, 153 N.J. 480 (1998), which eventually led to the Legislature's adoption of the Educational Facilities Construction and Financing Act, P.L.2000, c.72 ("EFCFA") on July 18, 2000. The EFCFA, as amended in P.L.2008, c.39, provides for an aggregate \$12.5 billion principal amount of bond proceeds ("EFCFA funding") to be issued by the New Jersey Economic Development Authority ("EDA"), the financing agent for the School Construction Program, and transferred to the Authority. Of this amount, \$8.9 billion is allocated to 31 poor, urban school districts referred to as the "SDA Districts" (formerly the Abbott School Districts), \$3.45 billion is for non-SDA districts ("Regular Operating Districts"), and \$150 million is reserved for vocational schools.

Governor Corzine Signs Legislation Approving Funding for School Facilities Projects

On July 9, 2008, Governor Corzine signed legislation (P.L.2008, c.39) that provides an additional \$3.9 billion in State financing for school facilities projects across the state. The legislation designates \$2.9 billion for SDA District school facilities projects, \$950 million is set aside to finance the State share of Regular Operating District school facilities projects, and \$50 million is directed toward county vocational school projects.

As a result of the new funding authorization, the Authority's Board of Directors approved a capital plan (the "2008 Capital Plan") that allocates the \$2.9 billion in funding for SDA

District school facilities projects. The new plan identifies 52 schools that are funded through construction, including 26 new school projects and 26 projects deferred in April 2007.

School Construction Program Authorized Funding and Disbursements

The Authority does not have an economic interest in any school facility project. With the exception of interest income on invested funds, the Authority does not generate substantial operating revenues, yet it incurs significant operating expenses to administer the School Construction Program. Costs related to school facilities projects are reported as school facilities project costs in the statement of activities. Administrative and general expenses, considered to be eligible project costs under the EFCFA, but not identifiable to a specific project, are also paid from EFCFA funding.

In April 2007, the Board of Directors approved a Capital Plan (the “2007 Capital Plan”) that provides funding through construction of 32 school facilities projects in the SDA Districts. As discussed above, the Authority’s 2008 Capital Plan provides funding through construction of an additional 52 school facilities projects in the SDA Districts. Funds are also set aside for emergent projects and other unforeseen events.

Through December 31, 2008, the Authority has received \$7.371 billion of the designated \$12.5 billion principal amount of bond proceeds authorized for the School Construction Program. In addition, as of that date, the Authority has disbursed 57.3% of the current program funding, as follows:

	<u>Bonding Cap</u>	<u>Program Funding</u> ¹	<u>Disbursements</u>	<u>% Paid</u>
SDA Districts	\$8,900,000,000	\$9,005,616,327	\$5,114,342,273	56.8%
Regular Operating Districts	3,450,000,000	3,492,671,491	2,052,338,946	58.8%
Vocational Schools	150,000,000	151,705,173	87,494,769	57.7%
Totals	<u>\$12,500,000,000</u>	<u>\$12,649,992,991</u>	<u>\$7,254,175,988</u>	57.3%

¹ Program funding includes the amounts authorized under the respective bonding caps in addition to the \$150 million of other income and miscellaneous revenue earned through December 31, 2008.

The 31 SDA Districts are located in 14 Counties throughout the State, as follows:

<u>County</u>	<u>School District</u>	<u>County</u>	<u>School District</u>
Atlantic	Pleasantville	Essex	Newark
Bergen	Garfield	Essex	Orange
Burlington	Burlington City	Hudson	Harrison
Burlington	Pemberton Township	Hudson	Hoboken
Camden	Camden	Hudson	Jersey City
Camden	Gloucester City	Hudson	Union City
Cumberland	Bridgeton	Hudson	West New York
Cumberland	Millville	Mercer	Trenton
Cumberland	Vineland	Middlesex	New Brunswick
Essex	East Orange	Middlesex	Perth Amboy
Essex	Irvington	Monmouth	Asbury Park

<u>County</u>	<u>School District</u>	<u>County</u>	<u>School District</u>
Monmouth	Keansburg	Salem	Salem City
Monmouth	Long Branch	Union	Elizabeth
Monmouth	Neptune Township	Union	Plainfield
Passaic	Passaic City	Warren	Phillipsburg
Passaic	Paterson		

In September 2008, the Authority opened 16 schools across the State of New Jersey. The total included 10 in the SDA Districts and six in the Regular Operating Districts. The 16 openings included seven new schools, eight extensive additions, renovations and/or rehabilitation projects and one smaller rehabilitation project. In all, nearly 15,000 students benefited from these openings.

From inception through December 31, 2008, the School Construction Program has completed 591 projects in the SDA Districts. The completed projects consist of: 45 new schools; 41 extensive additions, renovations and/or rehabilitations; 21 smaller rehabilitation projects; 354 health and safety projects; 127 Section 13 Grants for SDA District-managed projects under \$500,000; and three demonstration projects. Demonstration projects, funded and overseen by the Authority but managed by a municipal redevelopment entity and redeveloper, are designed to serve as a cornerstone of revitalization efforts. In addition, in the Regular Operating Districts the Authority has completed 19 projects that it managed for the districts, and state funding was provided through Section 15 Grants to 1,430 schools throughout the 21 counties of New Jersey.

As of December 31, 2008, the SDA has 17 active construction projects in the SDA Districts, three active demonstration projects and an additional seven projects ongoing in the Regular Operating Districts. In addition, preconstruction activity is under way for the 52 projects approved in the 2008 Capital Plan. Furthermore, an additional 141 emergent needs conditions were identified as requiring immediate repair in the SDA Districts. About 30 percent of these emergent projects require roof repair or replacement. Other problems being addressed include: deteriorating façades; water infiltration; heating and cooling system issues; and plumbing, electrical, mechanical and security systems. The Authority maintains a program reserve to address such emergent conditions and other unforeseen events.

The following un-audited information provides insight into the activities of the School Construction Program during the last five years and is not intended to be presented in accordance with generally accepted accounting principles.

	<u>\$ In thousands</u>				
	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>	<u>2004</u>
EFCFA funding received from State	\$450,000	\$800,000	\$600,000	\$2,075,000	\$1,700,000
Investment earnings	12,060	25,697	39,702	17,473	8,098
Administrative and general expenses	41,021	35,750	31,717	29,127	27,950
Capital expenditures	526	1,027	349	194	844
School facilities project costs	922,824	925,665	1,061,962	1,466,536	1,374,637
Employee count at end of year	298	272	241	240	250

2008 Financial Highlights

- At year end there is a net deficit of \$32.4 million
- Cash and investments are \$330.3 million
- Revenues are \$462.3 million, \$450 million of which is from EFCFA funding received from the State (or 97.3%)
- Expenses are \$965.5 million, \$922.8 million of which is for school facilities project costs (or 95.6%)
- Excess of general fund expenditures over general fund revenues is \$517.3 million

Overview of the Financial Statements

The financial section of this annual report consists of three parts: Management's Discussion and Analysis (this section); the basic financial statements; and required supplementary information. The Authority's basic financial statements consist of three components: 1) government-wide financial statements; 2) governmental fund financial statements (these are also referred to as the "general fund" financial statements); and 3) notes to financial statements. Because the Authority operates a single governmental program, its government-wide and governmental fund financial statements have been combined using a columnar format that reconciles individual line items of general fund financial data to government-wide data in a separate column on the face of the financial statement.

Government-wide financial statements are designed to provide readers with a broad overview of the Authority's finances, in a manner similar to a private sector business. The statement of net assets presents information on all of the Authority's assets and liabilities, with the difference between the two reported as net assets. Over time, an increase or decrease in net assets may serve as a useful indicator of whether the financial position of the Authority is improving or deteriorating.

The statement of activities presents information showing how the Authority's net assets changed during the most recent period. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of the related cash flows. Thus, revenue and expenses are reported in this statement for some items that will only result in cash flows in the future fiscal period.

Governmental fund financial statements are designed to provide the reader information about an entity's various funds. A fund is a grouping of related accounts that is used to maintain control over the resources that have been segregated for specific activities or objectives. The Authority uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The Authority operates a single governmental fund for financial reporting purposes and this fund is considered a general fund.

The focus of governmental fund financial statements is on near-term inflows and outflows of spendable resources as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating the Authority's near-term financing requirements.

Because the focus of the governmental fund is narrower than that of the government-wide financial statements, it is useful to compare the information presented for the governmental fund with similar information presented in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the Authority's near-term financing decisions. Both the fund balance sheet and the financial statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison.

Financial Analysis of the Authority

Net Assets - The Authority's net assets decreased to a net deficit of \$32.4 million at year-end, primarily due to 2008 expenditures for school facilities projects (\$922.8 million) exceeding 2008 State funding under the EFCFA (\$450 million). See Note 15, Subsequent Events, in the Notes to Financial Statements regarding the receipt of an additional \$175 million of bond proceeds in January 2009, and the prospects for additional bond proceeds in the short term. The following table summarizes the Authority's financial position at December 31, 2008 and 2007.

	\$ In thousands			
	2008	2007	\$ Increase/ (Decrease)	% Increase/ (Decrease)
Current assets	\$331,476	\$776,679	\$(445,203)	(57.3)%
Capital assets-net	4,998	6,144	(1,146)	(18.7)%
Total assets	336,474	782,823	(446,349)	(57.0)%
Current liabilities	361,005	281,974	79,031	28.0%
Non-current liabilities	7,907	23,141	(15,234)	(65.8)%
Total liabilities	368,912	305,115	63,797	20.9%
Net (deficit)/assets:				
Invested in capital assets	4,998	6,144	(1,146)	(18.7)%
Restricted for Qualified Zone				
Academies	-	2,829	(2,829)	(100.0)%
Restricted for Schools Construction				
Special Revenue Fund	(37,436)	468,735	(506,171)	(108.0)%
Total net (deficit)/assets	\$(32,438)	\$477,708	\$(510,146)	(106.8)%

Operating Activities - During the bidding process, the Authority charges a minimal fee ranging from \$50 up to \$500 for copies of design plans and specifications as specified in the construction project advertisements.

The Authority earns interest on invested funds primarily through its participation in the State Cash Management Fund, a fund managed by the Division of Investment under the Department of Treasury. The fund consists of U.S. Treasury obligations, government agencies obligations, certificates of deposit and commercial paper.

The following table summarizes the change in net assets for the years ended December 31, 2008 and 2007.

	\$ In thousands			
	2008	2007	\$ Increase/ (Decrease)	% Increase/ (Decrease)
Revenues				
EFCFA funding received from State	\$450,000	\$800,000	\$(350,000)	(43.8)%
Bidding fees-plans and specs	33	44	(11)	(26.7)%
Investment earnings	12,060	25,697	(13,637)	(53.1)%
Rental property income	78	1,277	(1,199)	(93.9)%
Other revenue	112	10	102	1,053.2%
Total revenues	<u>462,283</u>	<u>827,028</u>	<u>(364,745)</u>	<u>(44.1)%</u>
Expenses				
Administrative and general expenses	41,021	35,750	5,271	14.7%
Depreciation	1,672	1,573	99	6.3%
School facilities project costs	922,824	925,665	(2,841)	(0.3)%
Total expenses	<u>965,517</u>	<u>962,988</u>	<u>2,529</u>	<u>0.3%</u>
Change in net assets	<u>(503,234)</u>	<u>(135,960)</u>	<u>(367,274)</u>	<u>270.1%</u>
Beginning net assets – as previously stated	477,708	613,668	(135,960)	(22.2)%
Adjustment to beginning net assets *	<u>(6,912)</u>	<u>-</u>	<u>(6,912)</u>	<u>N/A</u>
Beginning net assets – as restated	<u>470,796</u>	<u>613,668</u>	<u>(142,872)</u>	<u>(23.3)%</u>
Ending net (deficit)/assets	<u><u>\$(32,438)</u></u>	<u><u>\$477,708</u></u>	<u><u>\$(510,146)</u></u>	<u><u>(106.8)%</u></u>

* Restated for the effects of Governmental Accounting Standards Board Statement No. 49.

Contacting the Authority's Financial Management

This financial report is designed to provide New Jersey citizens and taxpayers, and the Authority's customers, clients and creditors, with a general overview of the Authority's finances and to demonstrate the Authority's accountability for the funds it receives from the State. If you have questions about this report or need additional financial information, contact the Office of the Chief Financial Officer, New Jersey Schools Development Authority, P.O. Box 991, Trenton, NJ 08625-0991, or visit our web site at www.njsda.gov.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Statement of Net Assets and General Fund Balance Sheet

December 31, 2008

	General Fund Total	Adjustments (Note 8)	Statement of Net Assets
Assets			
Cash and cash equivalents	\$330,260,566		\$330,260,566
Receivables	846,681		846,681
Prepaid expenses	368,627		368,627
Capital assets-net of accumulated depreciation of \$8,505,961		\$4,997,690	4,997,690
Total assets	331,475,874	4,997,690	336,473,564
Liabilities			
Accrued school facilities project costs	295,734,809		295,734,809
Other post-employment benefits obligation		2,858,504	2,858,504
Other accrued liabilities	1,755,707	5,048,383	6,804,090
Deposits	63,514,563		63,514,563
Total liabilities	361,005,079	7,906,887	368,911,966
Fund Balances and Net Assets			
Fund balances:			
Reserved for prepaid expenses	368,627	(368,627)	
Unreserved-designated for schools construction special revenue fund	(29,897,832)	29,897,832	
Total fund balances	(29,529,205)	29,529,205	
Total liabilities and fund balances	\$331,475,874		
Net (Deficit) Assets			
Invested in capital assets		4,997,690	4,997,690
Restricted for schools construction special revenue fund		(37,436,092)	(37,436,092)
Total net deficit		\$(32,438,402)	\$(32,438,402)

See accompanying notes.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Statement of Activities and General Fund Revenues,
Expenditures and Changes in Fund Balances

For the Year Ended December 31, 2008

	General Fund Total	Adjustments (Note 8)	Statement of Activities
Revenues			
School Construction Program:			
EFCFA funding received from State	\$450,000,000		\$450,000,000
Bidding fees-plans and specs	32,650		32,650
General:			
Investment earnings	13,599,072	\$(1,539,113)	12,059,959
Rental property income	78,367		78,367
Other revenue	111,777		111,777
Total revenues	463,821,866	(1,539,113)	462,282,753
Expenditures/Expenses			
Administrative and General:			
Salaries and benefits	27,530,425	1,389,393	28,919,818
Other administrative and general	12,101,553		12,101,553
Capital expenditures	525,596	(525,596)	-
Capital depreciation		1,672,235	1,672,235
School facilities project costs	940,986,149	(18,162,689)	922,823,460
Total expenditures/expenses	981,143,723	(15,626,657)	965,517,066
Excess of expenditures over revenues	(517,321,857)	14,087,544	
Change in net assets			(503,234,313)
Fund Balance/Net (Deficit)/Assets			
Beginning of year – as previously stated	494,705,223	(16,996,741)	477,708,482
Adjustment to beginning balances *	(6,912,571)		(6,912,571)
Beginning of year – as restated	487,792,652	(16,996,741)	470,795,911
End of year, December 31, 2008	\$(29,529,205)	\$(2,909,197)	\$(32,438,402)

* Restated for the effects of Governmental Accounting Standards Board Statement No. 49 (Note 9).

See accompanying notes.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements

1. Nature of the Authority

The New Jersey Schools Development Authority (the “Authority” or “SDA”) was established on August 6, 2007 to replace the New Jersey Schools Construction Corporation (“SCC”) pursuant to reform legislation (P.L.2007, c.137). As of the date of the legislation, the SCC was dissolved and all its functions, powers, duties and employees were transferred to the SDA. The Authority is governed by its own Board of Directors and is fiscally dependent upon the State of New Jersey (“State”) for funding. Organizationally, the Authority is situated in, but not of, the New Jersey Department of the Treasury.

The School Construction Program was initiated in response to the New Jersey Supreme Court’s decision in Raymond Abbott et al. v. Fred G. Burke, 153 N.J. 480 (1998), which eventually led to the Legislature’s adoption of the Educational Facilities Construction and Financing Act, P.L.2000, c.72 (“EFCFA”) on July 18, 2000. The EFCFA, as amended in P.L.2008, c.39, provides for an aggregate \$12.5 billion principal amount of bond proceeds (“EFCFA funding”) to be issued by the New Jersey Economic Development Authority (“EDA”), the financing agent for the School Construction Program, and transferred to the Authority. Of this amount, \$8.9 billion is allocated to 31 poor, urban school districts referred to as the “SDA Districts” (formerly the Abbott School Districts), \$3.45 billion is for non-SDA districts (“Regular Operating Districts”), and \$150 million is reserved for vocational schools.

Recent Developments

On July 9, 2008, the Governor signed legislation (P.L.2008, c.39) that provides an additional \$3.9 billion in State financing for school facilities projects across the state. The legislation designates \$2.9 billion for SDA District school facilities projects, \$950 million is set aside to finance the State share of Regular Operating District school facilities projects, and \$50 million is directed toward county vocational school projects.

As a result of the new funding authorization, the Authority’s Board of Directors approved a capital plan (the “2008 Capital Plan”) that allocates the \$2.9 billion in funding for SDA District school facilities projects. The new plan identifies 52 schools that are funded through construction, including 26 new school projects and 26 projects deferred in April 2007.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

2. Summary of Significant Accounting Policies

(a) Government-Wide and Fund Financial Statements

The government-wide financial statements (i.e., the statement of net assets and the statement of activities) report information on all the activities of the Authority.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. Direct expenses are those that are clearly identifiable with a specific program. Program revenues include (1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment, and (2) EFCFA funding received from the State which monies are restricted to meeting either the operational or capital requirements of the School Construction Program.

Separate financial statements are provided for the Authority's governmental fund (these are also referred to as the "general fund" financial statements). Because the Authority operates a single governmental program, its government-wide and governmental fund financial statements have been combined using a columnar format that reconciles individual line items of general fund financial data to government-wide data in a separate column on the face of the financial statement.

(b) Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flows.

The Authority's governmental fund is classified as a general fund and its financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the Authority considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual basis accounting; however, expenditures related to compensated absences and certain other accruals are recorded only when payment is due.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

(c) Revenue Recognition

The Authority charges a minimal fee during the bidding process for copies of the design plans and specifications as specified in the construction project advertisements. Rental revenue is received under a month-to-month lease occupancy agreements. Acquisitions of various properties for the construction of school facilities projects generate rental revenue prior to the relocation of the occupants. Fees and rental revenues are generally recognized when received.

(d) Rebatable Arbitrage

Rebatable arbitrage is defined by Internal Revenue Code (IRC) Section 148 as earnings on investment purchase with the gross proceeds of a bond issue in excess of the amount that would have been earned if the investments were invested at a yield equal to the yield on the bond issue. The amount of rebates due the federal government is determined and payable during each five-year period and upon final payment of the tax-exempt bonds.

It is the Authority's policy to record arbitrage rebate liabilities only when it is probable that any excess investment income, as defined above, will not be retained by the Authority. The Authority does not record rebate liabilities in cases where it is projected that the liability will be negated by the 24-month spending exception in accordance with the IRC.

Rebatable arbitrage calculations have been performed for all series of School Facilities Construction Bonds up through 2006 Series R and S. Based on these calculations, the Authority has recorded an arbitrage rebate liability of \$4,196,253, related to 2005 Series P-Q, on the statement of net assets as of December 31, 2008, with corresponding charges to investment earnings on the statement of activities of \$1,539,113 and \$2,657,140, respectively, for the years ended December 31, 2008 and 2007. This accumulated rebate liability is estimated to be payable to the federal government on September 1, 2010.

(e) Cash Equivalents

Cash equivalents consist of highly liquid debt instruments with original maturities of three months or less, and participation in the State's Cash Management Fund ("NJCMF"), a fund managed by the Division of Investment under the Department of Treasury. It consists of U.S. Treasury obligations, government agencies obligations, certificates of deposit and commercial paper. Cash equivalents are stated at fair value.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

(f) Prepaid Expenses

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both the government-wide and governmental fund financial statements.

(g) Capital Assets

Capital assets are reported in the governmental activity column in the government-wide financial statements and are recorded at historical cost or estimated historical cost if purchased and constructed. The Authority's current capitalization threshold is \$10,000 for individual items meeting all other capitalization criterion. As of December 31, 2008, the Authority's capital assets consist of leasehold improvements, equipment, computer software and furniture and fixtures. Depreciation is provided by the straight-line method over the shorter of the life of the lease or the useful life of the related asset.

(h) Taxes

The Authority is exempt from all federal and state income taxes and real estate taxes.

(i) Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from those estimates.

3. Cash, Cash Equivalents and Investments

(a) Cash Flows

Overall cash and cash equivalents decreased during the year by nearly \$445 million to \$330 million as follows:

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

Cash and cash equivalents, beginning of year	\$774,937,584
Changes in cash:	
EFCFA funding received from State	450,000,000
Investment and interest income	13,584,070
Miscellaneous revenue	837,796
School facilities project costs	(880,936,507)
Administrative and general expenses	(39,760,922)
Capital expenditures	(940,178)
Deposits	12,538,723
Cash and cash equivalents, end of year	<u>\$330,260,566</u>

(b) Cash and Cash Equivalents

Operating cash, in the form of Negotiable Order of Withdrawal (“NOW”) accounts, is held in the Authority’s name by two commercial banking institutions. At December 31, 2008, the carrying amount of operating cash is \$1,408,106 and the bank balance is \$2,032,526. Regarding the amount held by commercial banking institutions, up to \$250,000 at each institution is insured with Federal Deposit Insurance.

Pursuant to GASB Statement No. 40, “Deposit and Investment Risk Disclosures” (“GASB 40”), NOW accounts are profiled in order to determine exposure, if any, to custodial credit risk (risk that in the event of failure of the counterparty the account owner would not be able to recover the value of its deposits or investment). Deposits are considered to be exposed to custodial credit risk if they are: uncollateralized (securities not pledged to the depositor); collateralized with securities held by the pledging financial institution; or collateralized with securities held by the financial institution’s trust department or agent but not in the government’s name. At December 31, 2008, all of the Authority’s deposits were collateralized by securities held in its name and, accordingly, not exposed to custodial credit risk. The Authority does not have a policy for custodial credit risk.

As of December 31, 2008, cash and cash equivalents include \$63,514,563 for local share deposits (see Note 5).

(c) Investments

In order to maximize liquidity, the Authority utilizes the NJCMF as its sole investment. The NJCMF invests pooled monies from various State and non-State agencies in primarily short-term investments. These investments include: U.S. Treasuries; short-term commercial paper; U.S. Agency Bonds; Corporate Bonds; and Certificates of Deposit. Agencies that participate in the NJCMF typically earn returns that mirror short-term investment rates. Monies can be

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

freely added or withdrawn from the NJCMF on a daily basis without penalty. At December 31, 2008, the Authority's investments in the NJCMF total \$328,852,159.

Custodial Credit Risk: Pursuant to GASB 40, the NJCMF, which is a pooled investment, is exempt from custodial credit risk disclosure. The Authority does not have a policy for custodial credit risk.

Credit Risk: The Authority does not have an investment policy regarding the management of credit risk. GASB 40 requires that disclosure be made as to the credit rating of all debt security investments except for obligations of the U.S. government or investments guaranteed by the U.S. government. The NJCMF is not rated by a rating agency.

Interest Rate Risk: The Authority does not have a policy to limit interest rate risk. The average maturity of the Authority's sole investment, the NJCMF, is less than one year.

4. Prepaid Expenses

As of December 31, 2008, the Authority's prepaid expenses are as follows:

Office rents	\$192,125
Security deposits	166,072
Other	<u>10,430</u>
Total prepaid expenses	<u><u>\$368,627</u></u>

5. Deposits

The Authority has received funds from several local school districts as required by Local Share Agreements for the funding of the local share portion of Regular Operating District school facility projects, or to cover certain ineligible costs pertaining to projects in the SDA Districts. These deposits, including investment earnings, are reflected as liabilities in the accompanying financial statements.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

As of December 31, 2008, local share deposits held in SDA bank accounts, inclusive of interest earned but not refunded to the district, are as follows:

<u>School District</u>	
Greater Egg Harbor	\$23,058,374
Egg Harbor Township	11,108,920
Egg Harbor City	7,835,768
Buena Borough	7,775,813
City of Newark	4,355,748
Neptune Township	3,794,489
Barnegat Township	2,639,632
Clark Township	1,566,195
Harrison Township	499,438
City of Long Branch	289,498
Fairfield Township	248,192
Burlington City	189,899
Other	152,597
Total local share deposits	<u>\$63,514,563</u>

6. Rental of Office Space

The Authority rents commercial office space for its headquarters facility in Trenton, as well as rents office space to house its two regional offices located in Trenton and Newark. The remaining terms of these leases range from two months to over five years. Total rental expense for the year ended December 31, 2008 amounted to \$2,499,328.

Future rent commitments under operating leases are as follows:

2009	\$2,065,267
2010	2,009,258
2011	1,691,091
2012	1,698,459
2013	1,396,397
2014	134,167
Total future rent expense	<u>\$8,994,639</u>

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

7. Capital Assets

Capital asset activity for the year ended December 31, 2008 is as follows:

	Beginning Balance	Additions	Retirements	Ending Balance
Leasehold improvements	\$7,918,077	\$ -	\$(109,621)	\$7,808,456
Office furniture and equipment	4,542,908	75,888	-	4,618,796
Computer software	568,993		-	568,993
Automobiles	57,698	91,558	-	149,256
Construction in progress	-	358,150	-	358,150
Capital assets-gross	13,087,676	525,596	(109,621)	13,503,651
Less: accumulated depreciation	6,943,347	1,672,235	(109,621)	8,505,961
Capital assets-net	<u>\$6,144,329</u>	<u>\$(1,146,639)</u>	<u>\$ -</u>	<u>\$4,997,690</u>

Construction in progress consists of data storage equipment under development.

8. Reconciliation of Government-Wide and Fund Financial Statements

(a) Explanation of certain differences between the governmental fund balance sheet and the government-wide statement of net assets

“Total fund balances” for the Authority’s general fund (a deficit of \$29,529,205) differs from the “net deficit” reported on the statement of net assets (a deficit of \$32,438,402). This difference results from the long-term economic focus of the statement of net assets versus the current financial resources focus of the fund balance sheet. When capital assets that are to be used in the Authority’s activities are constructed or acquired, the costs of those assets are reported as expenditures in the fund financial statements. However, the statement of net assets includes those capital assets among the assets of the Authority as a whole. In addition, expenses associated with depreciation, arbitrage rebate (shown as a reduction in investment earnings) and non-current other post-employment benefits and compensated absences are not recorded in the fund financial statements.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

Fund balances	\$(29,529,205)
Capital assets, net of related depreciation of \$8,505,961	4,997,690
Accrued other post-employment benefits	(2,858,504)
Accrued arbitrage rebate	(4,196,253)
Accrued compensated absences	(852,130)
Net (deficit) assets	<u><u>\$(32,438,402)</u></u>

(b) Explanation of certain differences between the governmental fund statement of revenues, expenditures, and changes in fund balances and the government-wide statement of activities

The governmental fund statement of revenues, expenditures, and changes in fund balances includes a reconciliation between excess of expenditures over revenues and changes in net assets as reported in the government-wide statement of activities. Governmental funds report capital outlays as expenditures. However, in the statement of activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. Also, some expenses reported in the statement of activities do not require the use of current financial resources and therefore are not reported as expenditures in governmental funds.

Excess of expenditures over revenues	\$(517,321,857)
Arbitrage rebate	(1,539,113)
Other post-employment benefits expense	(1,291,233)
Compensated absences expense	(98,160)
Capital asset acquisitions	525,596
Depreciation expense	(1,672,235)
School facilities project costs	18,162,689
Changes in net assets or deficit	<u><u>\$(503,234,313)</u></u>

9. Pollution Remediation Obligations

Effective January 1, 2008, the Authority implemented accrual accounting for its pollution remediation obligations (PRO) in accordance with Governmental Accounting Standards Board (“GASB”) Statement No. 49, “*Accounting and Financial Reporting for Pollution Remediation Obligations.*” As a result, the Authority has recorded in the statement of net assets and general fund balance sheet a PRO liability (net of environmental cost recoveries not yet realized) in the amount of \$30,114,410 as of December 31, 2008. Additionally, as of the same date the Authority has recorded in the statement of net assets and general fund balance sheet a receivable in the amount of \$583,260 for realized environmental cost recoveries. The Authority’s PRO liability and asset are charged or credited to school facilities project costs in the statement of activities and general fund revenues, expenditures

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

and changes in fund balance, with \$22,618,579 charged to expense (net) in 2008. The Authority's PRO liability is measured based on the current cost of future activities. Also, the PRO liability was estimated using "the expected cash flow technique," which measures the liability as the sum of probability weighted amounts in a range of possible estimated outcomes.

The Authority owns numerous properties with environmental issues that meet the criteria for "obligating events" and disclosure under GASB Statement No. 49. All of the properties meeting the criteria were acquired by the Authority for the purpose of constructing a school facilities project on behalf of an SDA District, and these projects are fully funded through construction via the approval of various capital plans. As a result, the Authority believes it has obligated itself to commence clean-up activities. The Authority's remediation activities generally include: pre-cleanup activities including preliminary assessment and site investigation; asbestos and lead based paint removal; underground storage tank removal; neutralization, containment, removal and disposal of ground pollutants; site restoration; and post-remediation monitoring and oversight. The following table summarizes the Authority's expected outlays (estimated costs), payments and cost recoveries related to numerous SDA-owned properties associated with 36 school facilities projects in various stages of pre-development and construction.

Description	Estimated Cost	Payments to Date	PRO at 12-31-2008
Asbestos and lead based paint removal	\$16,146,270	\$10,281,079	\$5,865,191
Pre-cleanup activities	5,140,829	4,373,579	767,250
Site remediation work	55,028,542	30,482,325	24,546,217
Post-remediation monitoring	899,134	164,555	734,579
Sub-total	77,214,775	45,301,538	31,913,237
Less: Estimated environmental cost recoveries (ECR) not yet realized	1,798,827	-	1,798,827
Liability for pollution remediation obligations	<u>\$75,415,948</u>	<u>\$45,301,538</u>	<u>\$30,114,410</u>
Receivable for realized ECR	<u>\$583,260</u>	-	<u>\$583,260</u>

As required under GASB Statement No. 49, the Authority's net assets and fund balances were restated as of January 1, 2008 to reflect the measurement of the Authority's PRO liability at the beginning of the year. The following table summarizes the changes in the Authority's PRO liability during the year ended December 31, 2008:

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

PRO at * 12-31-2007	2008 PRO Increases	2008 PRO Payments	2008 ECR Not Yet Realized	PRO at 12-31-2008
\$6,912,571	\$29,693,876	(\$4,778,733)	(\$1,713,304)	\$30,114,410

* Represents the amount in which beginning of year net assets and fund balances were restated.

10. Commitments and Contingencies

(a) Contractual Commitments

At December 31, 2008, the Authority has approximately \$857 million of unaccrued contractual commitments relating to future expenditures associated with school facilities projects.

(b) Contractor Claims

Numerous contractor claims, the vast majority of which are not in litigation, have been filed with the Authority by design consultants, general contractors and project management firms relating to disputes concerning school construction matters (e.g., delays, labor and material price increases). The Authority resolves contractor claims by following the administrative process noted in the relevant contract. As of December 31, 2008, the Authority's potential loss from these claims has been estimated to be approximately \$43.7 million, which represents a decrease of \$7.2 million from the prior year end accrual. Accordingly, as of December 31, 2008, an accrued liability of \$43.7 million is reflected in the statement of net assets and general fund balance sheet and, for the year then ended, \$7.2 million is credited against school facilities project costs on the statement of activities and general fund revenues, expenditures and changes in fund balances.

(c) Real Estate Matters

The Authority has either received Notices of Claims or is a named defendant in several lawsuits relating to its real estate activities including, among other things, disputes over relocation benefits, and various claims for damages. As of December 31, 2008, management believes its exposure related to these matters is reasonably estimated to be \$1.3 million, which amount represents a \$0.2 million decrease from the prior year end accrual. Accordingly, as of December 31, 2008, an accrued liability of \$1.3 million is reflected on the statement of net assets and general fund balance sheet and, for the year then ended, \$0.2 million is credited against school facilities project costs on the statement of activities and general fund revenues, expenditures and changes in fund balances.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

(d) Insurance

The Authority maintains commercial insurance coverage for, among other things, workers' compensation, tort liability (including public liability and automobile) and property damage. Additionally, as discussed below, the Authority has implemented an owner-controlled insurance program (OCIP) related to its construction operations. As of December 31, 2008, management is not aware of any insurable claim that is expected to exceed its commercial insurance coverage. Also, the Authority is involved in several lawsuits not covered under its commercial insurance; however, in the opinion of management, none of the claims is expected to have a material effect on the Authority's financial statements.

The Authority has implemented an OCIP that allows multiple types of insurance coverage to be "wrapped up" into one program. The Authority initially implemented a three-year OCIP, effective December 31, 2003, to provide workers' compensation, general liability, umbrella/excess liability, and builder's risk coverage for all eligible contractors. Two firms were engaged to broker the program, as well as provide OCIP administration.

Upon expiration of the initial three-year OCIP, the Authority negotiated a two year extension, which was set to expire on December 31, 2008, except for the builder's risk policy, which is to expire on December 31, 2009. Given the complexity of the procurement process and time constraints, the Authority has negotiated a three-month extension of the construction commencement date for projects. Accordingly, the OCIP as currently extended covers all construction projects with a commencement date of prior to March 31, 2009, and having an estimated completion date of on or before December 31, 2010. The Authority has begun a competitive procurement process to obtain bids for continuing the OCIP.

The OCIP general liability and workers' compensation is subject to a \$250,000 deductible for any one loss, inclusive of allocated loss adjustment expenses. OCIP costs will be adjusted upon audited direct labor payroll after the completion of the enrolled construction projects. As of December 31, 2008, the projected construction labor costs enrolled in the OCIP is \$300 million.

In June 2004, the Authority executed a Funded Multi-Line Deductible Program Agreement with the insurer for general liability and workers' compensation claims. Among other things, the agreement stipulated that, in lieu of a letter of credit, the Authority would be required to provide a Deductible Reimbursement Fund (DRF) for expected losses and collateral security under the \$250,000 insurance deductible. The DRF, which was established at \$37 million, consists of cash payments by the Authority totaling \$34.9 million, and a one-time credit of \$2.1 million received at inception for estimated interest. The cash portion of the DRF was funded by the Authority in installments during the period from December 2003 through

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

December 2006, and expensed as paid as school facilities project costs on the statement of activities and general fund revenues, expenditures and changes in fund balances.

As of December 31, 2008, the Authority has incurred general liability and workers' compensation claims totaling approximately \$9.5 million, of which \$5.3 million has been paid to date. All monies deposited in the DRF and not used to pay claims will be refunded to the Authority. Under the terms of the contract, the Authority has no claim or interest in the DRF until all obligations have been paid in full. A reasonable estimate of the refund is not yet known nor has a refund been agreed to by the insurer since many covered school facilities projects are in various stages of completion and therefore the Authority's ultimate obligation cannot be immediately determined.

11. Employee Benefits

(a) Public Employees Retirement System of New Jersey

All active, full-time employees of the Authority are required as a condition of employment to participate in the Public Employees Retirement System of New Jersey ("PERS" or "Plan"), a cost-sharing, multiple-employer defined benefit plan administered by the State. Employees currently contribute 5.5% of their annual compensation to the Plan. As discussed below, members enrolled in the PERS on or after July 1, 2007, and who earn an annual salary in excess of established limits, are eligible to participate in a Defined Contribution Retirement Program (DCRP) administered by Prudential Financial on behalf of the State. The Authority's total payroll for the years ended December 31, 2008, 2007 and 2006, which approximates its covered payroll, was \$21,291,915, \$18,622,173 and \$17,385,246, respectively.

The State and local employers, including the Authority, were not required to make normal contributions to the PERS between 1997 and 2004 based on Pension Security legislation passed in 1997. Beginning in 2005, mandatory normal and accrued liability contributions to the PERS were resumed since the actuarial value of the Plan's assets was insufficient to support the projected value of accrued liabilities. However, in order to minimize the immediate fiscal impact of the annual pension obligation, P.L. 2003, c.108 was enacted, which calls for a phase-in of the employer's funding requirement. This State statute provides that the Treasurer shall reduce an employer's normal and accrued liability contributions to a percentage of the amount certified annually by the PERS as follows: 20% of the actuarially calculated liability is payable in 2005; not more than 40% of the actuarially calculated liability is payable in 2006; not more than 60% of the actuarially calculated liability is payable in 2007; not more than 80% of the actuarially calculated liability is payable in 2008; and 100% of the actuarially calculated liability is payable in 2009. In 2008, 2007 and 2006, the Authority's pension contributions to the PERS totaled \$1,006,609, \$618,649 and \$309,156, respectively,

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

which amounts were charged to salaries and benefits expense. The Authority's 2009 pension contribution, due on April 1, 2009, is expected to be in the amount of \$1,400,824.

The general formula for annual retirement benefits is the final average salary divided by 55, times the employee's years of service. Pension benefits fully vest upon reaching 10 years of credited service. Members are eligible for retirement at age 60 with no minimum years of service required. Generally, except as described in the section below, members who have 25 years or more of credited service may elect early retirement without penalty at or after age 55 and receive full retirement benefits; however, the retirement allowance is reduced by 3% per year (1/4 of 1 percent per month) for each year the member is under age 55. The PERS also provides death and disability benefits. All benefits are established by State statute. The State of New Jersey, Department of the Treasury, Division of Pension and Benefits, issues publicly available financial reports that include the financial statements and required supplementary information for the PERS. The financial reports may be obtained by writing to the State of New Jersey, Department of the Treasury, Division of Pension and Benefits, P.O. Box 295, Trenton, New Jersey, 08625-0295.

(b) Defined Contribution Retirement Program and Early Retirement Changes for Employees Enrolled in the PERS on or after July 1, 2007

The DCRP was established on July 1, 2007 under the provisions of P.L.2007, c.92 and P.L.2007, c.103. The DCRP provides eligible members with a tax-sheltered, defined contribution retirement benefit, along with death and disability benefits. A PERS member who becomes eligible and is enrolled in the DCRP is immediately vested in the DCRP. To be eligible for the DCRP, an employee is required to have enrolled in the PERS on or after July 1, 2007, and they must earn an annual salary in excess of established "maximum compensation" limits. The maximum compensation is based on the annual maximum wage for Social Security and is subject to change at the start of each calendar year. A PERS member who is eligible for the DCRP may voluntarily choose to waive participation in the DCRP for a reduced retirement benefit from the State. If a member waives DCRP participation and later wishes to participate, the member may apply for DCRP enrollment, with membership to be effective January 1 of the following calendar year.

PERS members who participate in the DCRP continue to receive service credit and are eligible to retire under the rules of the PERS, with their final salary at retirement limited to the maximum compensation amounts in effect when the salary was earned. The participating member would also be entitled to a supplementary benefit at retirement based on both the employee (above the maximum compensation limit) and employer contributions to the DCRP. For the direct benefit of those participating in the DCRP, the Authority would be

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

required to contribute 3% to the DCRP (“employer matching”) based on the member’s annual compensation (base salary) in excess of the maximum compensation limit.

As of December 31, 2008, the Authority has two employees enrolled in the DCRP. There were no employer matching contributions made during 2008 and 2007.

P.L.2007, c.103 also changes certain provisions with regard to early retirement for new employees who enrolled in the PERS on or after July 1, 2007. If a member who enrolled on or after July 1, 2007 retires with 25 or more years of service before reaching age 60, the retirement allowance is reduced 1% per year (1/12 of 1 percent per month) for each year the member is under age 60 but over age 55. As was the case under prior law, the retirement allowance is reduced by 3% per year (1/4 of 1 percent per month) for each year the member is under age 55.

(c) Deferred Compensation

The Authority has established an Employees Deferred Compensation Plan under section 457 of the Internal Revenue Code. All active, full-time employees are eligible to participate in the plan, which permits participants to defer a portion of their pay in accordance with the contribution limits established in section 457(b) of the Internal Revenue Code. The Authority does not make any contributions to the plan.

(d) Other Post-Employment Benefits

The Authority provides post-employment healthcare benefits (including Medicare Part B reimbursement) and prescription drug coverage through participation in the New Jersey Health Benefits Program, as sponsored and administered by the State of New Jersey, to retirees having 25 years or more of service in the PERS, or to those individuals approved for disability retirement. These post-employment benefits also extend to the retirees’ covered dependents. Upon turning 65 years of age, a retiree must opt for Medicare as their primary coverage, with State benefits providing supplemental coverage. In addition, life insurance is provided to retirees in an amount equal to 3/16 of their average salary during the final 12 months of active employment. These post-employment benefits, referred to as OPEB, are presently provided by the Authority at no cost to the retiree. The State has the authority to establish and amend the benefit provisions offered and contribution requirements. The plan is considered an agent multiple-employer defined benefit plan for financial reporting purposes. The State of New Jersey, Department of the Treasury, Division of Pension and Benefits, issues publicly available financial reports that include the financial statements for the State Health Benefits Program Funds. The financial reports may be obtained by writing

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

to the State of New Jersey, Department of the Treasury, Division of Pension and Benefits, P.O. Box 295, Trenton, New Jersey, 08625-0295.

Prior to January 1, 2007, the cost of OPEB was charged to expense as paid by the Authority. Effective January 1, 2007, the Authority prospectively implemented accrual accounting for its OPEB obligations in accordance with GASB Statement No. 45, "Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions." The Authority's OPEB cost is calculated based on the annual required contribution of the employer (ARC), an amount actuarially determined in accordance with the parameters of GASB Statement No. 45. The Authority's 2008 OPEB cost has been adjusted to reflect the fact that the previous year's ARC was not fully funded. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal costs each year and to amortize any unfunded actuarial liabilities over a period not to exceed 30 years. The Authority's annual OPEB cost for 2008 and 2007 and the related information for the plan are as follows:

	<u>2008</u>	<u>2007</u>
Annual required contribution	\$1,354,100	\$1,596,100
Adjustment to annual required contribution *	<u>12,100</u>	<u>-</u>
Annual OPEB cost	1,366,200	1,596,100
Contributions made	<u>(74,967)</u>	<u>(28,829)</u>
Increase in net OPEB obligation	1,291,233	1,567,271
Net OPEB obligation – beginning of year	<u>1,567,271</u>	<u>-</u>
Net OPEB obligation – end of year	<u><u>\$2,858,504</u></u>	<u><u>\$1,567,271</u></u>

* The adjustment to the ARC includes interest on the net OPEB obligation of \$70,500, less amortization of the net OPEB obligation of \$58,400.

The annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for 2008 and 2007 is as follows:

<u>Year Ended</u>	<u>Annual OPEB Cost</u>	<u>Percentage of Annual OPEB Cost Contributed</u>	<u>Net OPEB Obligation</u>
12/31/2008	\$1,366,200	5.5%	\$2,858,504
12/31/2007	\$1,596,100	1.8%	\$1,567,271

As of the most recent valuation date (January 1, 2008), the Authority's actuarial accrued liability was \$8,975,500, all of which was unfunded as of December 31, 2008. The Authority is recognizing this liability over a 30-year period using 4% annual increasing amortization, which is representative of amortizing on a level percentage of payroll on an open basis. The covered payroll (annual payroll of active employees covered by the

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

plan) as of the valuation date was \$20,275,000 and the ratio of the unfunded actuarial accrued liability to the covered payroll was 44.3%. Additionally, as of the valuation date five active and six retired employees were eligible for post-employment benefits.

The Authority has elected at this time to finance its annual OPEB cost on a pay-as-you-go basis in view of the fact that the Authority is not authorized to pre-fund an OPEB trust from the proceeds of tax-exempt bonds (nor from the income earned on the investment of those proceeds) from which it presently derives essentially all of its revenue. Payments for retiree post-employment benefits totaled \$74,967 and \$28,829, respectively, in 2008 and 2007. Additionally, in 2007 the Authority paid the EDA \$44,280 for post-employment benefit costs related to three former employees who retired from the School Construction Program when it was under the EDA. Beginning in 2008, these retirees were transferred to the Authority in the PERS.

Actuarial Methods and Assumptions: Actuarial valuations of a perpetual plan involve formulating estimates and assumptions about the probability of occurrence of future events, such as employment, mortality and healthcare costs, among other things. Consequently, the amounts derived from the current actuarial valuation are subject to continual revision as actual results will undoubtedly differ from past expectations and assumptions. The schedule of funding progress, presented as required supplementary information following the notes to financial statements, presents multi-year trend information that shows whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits.

Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the employer and plan members) and include the types of benefits provided at the time of each valuation date and the historical pattern of benefit cost sharing between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

For the January 1, 2008 actuarial valuation the projected unit credit actuarial cost method was used with a 4.5% discount rate. Pursuant to this method, benefits are recognized from date of hire to the date the employee is first eligible for benefits. No investment return was assumed in the current valuation since there are no OPEB plan assets. The healthcare cost trend assumed in the actuarial valuation includes an initial annual cost rate increase of between 9.5% and 10.5% depending on the medical plan (i.e. NJ Direct or HMO), decreasing by .5% annually to a long-term trend rate of 5% annually commencing in 2019. The prescription drug cost trend assumed in the actuarial valuation includes an initial annual cost rate increase of 11.5%, decreasing by .5% annually to a long-term trend rate of 5% annually commencing in 2021. The Medicare Part B premium reimbursement cost trend assumed in the actuarial valuation includes an initial

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

annual cost rate increase of 1.5%, increasing to 6.5% in 2009, then decreasing to a long-term trend rate of 5% annually commencing in 2010. As required in GASB Technical Memorandum 2006 1 on the accounting for the federal Retiree Drug Subsidy (RDS), the Authority's actuarial liabilities are shown without a reduction for the RDS even though the State Health Benefits Program has opted to receive the RDS.

12. Compensated Absences

In accordance with GASB Statement No. 16, "Accounting for Compensated Absences", the Authority recorded a liability in the amount \$852,130 as of December 31, 2008. The liability is the value of employee accrued vacation time as of the balance sheet date and vested sick leave benefits that are probable of payment to employees upon retirement. The vested sick leave benefit to retirees for unused accumulated sick leave is calculated at the lesser of ½ the value of earned time or \$15,000. The payment of sick leave benefits, prior to retirement, is dependent on the occurrence of sickness as defined by the Authority's policy; therefore, such unvested benefits are not accrued.

13. Long-Term Liabilities

During 2008, the following changes in long-term liabilities are reflected in the statement of net assets:

	Beginning Balance	Additions	Deductions	Ending Balance
Accrued school facilities project costs	\$18,162,689		\$(18,162,689)	\$ -
Other post-employment benefits obligation	1,567,271	\$1,366,200	(74,967)	2,858,504
Arbitrage rebate	2,657,140	1,539,113		4,196,253
Compensated absences	753,970	98,160		852,130
Total long-term liabilities	<u>\$23,141,070</u>	<u>\$3,003,473</u>	<u>\$(18,237,656)</u>	<u>\$7,906,887</u>

For further information, see Notes 2(d), 10(c), 11(c) and 12.

14. Net Assets

The Authority's net assets (or deficit) are categorized as either invested in capital assets, restricted for qualified zone academies or restricted for schools construction special revenue fund. At December 31, 2008, the Authority has a net deficit of \$32.4 million; however, as discussed in Note 15, the Authority received \$175 million of bond proceeds in January 2009, and expects to receive additional bond proceeds in April 2009.

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

Invested in capital assets includes leasehold improvements, furniture and fixtures, equipment and computer software used in the Authority's operations, net of accumulated depreciation. Qualified zone restricted assets include net assets that have been restricted in use for construction projects that qualify under Section 1397E(e)(2) of the Internal Revenue Code as qualified zone academies. Schools construction restricted assets include all net assets not included in the other two categories. When both restricted and unrestricted resources are available for use, it is the Authority's policy to first use restricted resources then unrestricted resources as needed.

As shown below, the Authority's 2008 beginning of year net assets have been restated pursuant to GASB Statement No. 49 (see Note 9). The changes during 2007 and 2008 in net assets are as follows:

	Invested in Capital Assets	Restricted for Qualified Zone Academies	Restricted for Schools Construction Special Revenue Fund	Totals
Net assets,				
December 31, 2006	\$6,690,508	\$2,689,268	\$604,288,430	\$613,668,206
(Loss)/Excess before receipt of EFCFA funding and transfers	(1,573,235)		(8,721,127)	(10,294,362)
Capital assets acquired	1,027,056		(1,027,056)	-
EFCFA funding received from State			800,000,000	800,000,000
School facilities project costs		139,447	(925,804,809)	(925,665,362)
Net assets,				
December 31, 2007	6,144,329	2,828,715	468,735,438	477,708,482
Effects of GASB Statement No. 49 implementation on beginning of year net assets			(6,912,571)	(6,912,571)
Beginning net assets – as restated January 1, 2008	6,144,329	2,828,715	461,822,867	470,795,911
(Loss)/Excess before receipt of EFCFA funding and transfers	(1,672,235)		(28,738,618)	(30,410,853)
Capital assets acquired	525,596		(525,596)	-
EFCFA funding received from State			450,000,000	450,000,000
School facilities project costs		(2,828,715)	(919,994,745)	(922,823,460)
Net (deficit) assets,				
December 31, 2008	\$4,997,690	\$ -	\$(37,436,092)	\$(32,438,402)

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Notes to Financial Statements (continued)

15. Subsequent Events

(a) Receipt of Additional Bond Proceeds

On January 29, 2009, the Authority received an additional \$175 million of bond proceeds from the sale of EDA School Facilities Construction Bonds. This raises the total amount of bond proceeds received since program inception to \$7.546 billion. The Authority expects to receive an additional \$400 million to \$500 million of bond proceeds in April 2009.

(b) Settlement Agreement

In January 2009, the Authority agreed to settle a long standing dispute with one of its general contractors involving an environmental issue. Pursuant to the settlement agreement, the contractor will pay the Authority \$4.8 million in February 2009.

(c) Obama Economic Stimulus Package

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 (the "Act") which, among other things, establishes a State Fiscal Stabilization Fund. Pursuant to the Act, the Governor shall use 18.2 percent of the State's allocation under section 14001 for public safety and other government services, which may include assistance for modernization, renovation, or repair of public school facilities. The amount of federal assistance to be made available to the Authority for eligible school construction work in New Jersey, if any, will be determined by Governor Corzine. The Authority is finalizing a list of currently unfunded health and safety projects that would be eligible for funding under the Act and could be completed expeditiously.

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
(a component unit of the State of New Jersey)

REQUIRED SUPPLEMENTARY INFORMATION

New Jersey Schools Development Authority
(a component unit of the State of New Jersey)

Schedule of Funding Progress - Post-Employment Healthcare Benefit Plan

\$ In thousands

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) - Level Dollar (b)	Unfunded AAL (UAAL) (b) - (a)	Funded Ratio (a) / (b)	Covered Payroll (c)	UAAL as a Percentage of Covered Payroll (b) - (a) / (c)
1-1-2008	\$0	\$8,976	\$8,976	0%	\$20,275	44%
1-1-2007	\$0	\$8,922	\$8,922	0%	\$17,271	52%

ATTACHMENT H

CHAPTER 51 FORMS

{See attached sheets}

INFORMATION AND INSTRUCTIONS For Completing The “Two- Year Vendor Certification and Disclosure of Political Contributions” Forms

Background Information

On September 22, 2004, then-Governor James E. McGreevey issued Executive Order 134, the purpose of which was to insulate the negotiation and award of State contracts from political contributions that posed a risk of improper influence, purchase of access or the appearance thereof. To this end, Executive Order 134 prohibited State departments, agencies and authorities from entering into contracts exceeding \$17,500 with individuals or entities that made certain political contributions. Executive Order 134 was superseded by Public Law 2005, c. 51, signed into law on March 22, 2005 (“Chapter 51”).

On September 24, 2008, Governor Jon S. Corzine issued Executive Order No. 117 (“E.O. 117”), which is designed to enhance New Jersey’s efforts to protect the integrity of procurement decisions and increase the public’s confidence in government. The Executive Order builds upon the provisions of Chapter 51.

Two-Year Certification Process

Upon approval by the State, the Certification and Disclosure of Political Contributions form (CH51.1R1/21/2009) is valid for a two (2) year period. Thus, if a vendor receives approval on Jan 1, 2009, the certification expiration date would be Dec 31, 2011. Any change in the vendor’s ownership status and/or political contributions during the two-year period will require the submission of new Chapter 51/EO117 forms to the State Review Unit. **Please note that it is the vendor’s responsibility to file new forms with the State should these changes occur.**

Prior to the awarding of a contract, the agency should first send an e-mail to CD134@treas.state.nj.us to verify the certification status of the vendor. If the response is that the vendor is NOT within an approved two-year period, then forms must be obtained from the vendor and forwarded for review. If the response is that the vendor is within an approved two-year period, then the response so stating should be placed with the bid/contract documentation for the subject project.

Instructions for Completing the Forms

NOTE: *Please refer to the next section, “Useful Definitions for Purposes of Ch. 51 and E.O. 117,” for guidance when completing the forms.*

Part 1: VENDOR INFORMATION

Business Name – Enter the full name of the Vendor, including trade name if applicable.

Business Type -- Select the vendor’s business organization from the list provided.

Address, City, State, Zip and Phone Number -- Enter the vendor’s street address, city, state, zip code and telephone number.

Vendor Email – Enter the vendor’s primary email address.

Vendor FEIN – Please enter the vendor’s Federal Employment Identification Number.

INFORMATION AND INSTRUCTIONS
For Completing The “Two- Year Vendor Certification and Disclosure of Political Contributions” Forms

Part 2: PUBLIC LAW 2005, Chapter 51 / EXECUTIVE ORDER 117 (2008) DUAL CERTIFICATION

Read the following statements and verify that from the period beginning on or after October 15, 2004, no contributions as set forth at subsections 1(a)-(c) have been made by either the vendor or any individual whose contributions are attributable to the vendor pursuant to Executive Order 117 (2008).

NOTE: Contributions made prior to November 15, 2008 are applicable to Chapter 51 only.

Part 3: DISCLOSURE OF CONTRIBUTIONS MADE

Check the box at top of page 2 if no reportable contributions have been made by the vendor. If the vendor has no contributions to report, this box must be checked.

Name of Recipient Entity – Enter the full name of the recipient entity.

Address of Recipient Entity – Enter the recipient entity’s street address.

Date of Contribution – Indicate the date of the contribution.

Amount of Contribution – Enter the amount of the reportable contribution.

Type of Contribution – Select the type of contribution from the list provided.

Contributor Name – Enter the full name of the contributor.

Relationship of Contributor to the Vendor -- Indicate relationship of the contributor to the vendor, e.g. officer or partner of the company, spouse of officer or partner, resident child of officer or partner, parent company of the vendor, subsidiary of the vendor, etc.

NOTE: If form is being completed electronically, click “Add a Contribution” to enter additional contributions. Otherwise, please attach additional pages as necessary.

Part 4: CERTIFICATION

Check box A if the person completing the certification and disclosure is doing so on behalf of the vendor and all individuals and/or entities whose contributions are attributable to the vendor.

Check box B if the person completing the certification and disclosure is doing so on behalf of the vendor only.

Check box C if the person completing the certification and disclosure is doing so on behalf of an individual and/or entity whose contributions are attributable to the vendor.

Enter the full name of the person authorized to complete the certification and disclosure, the person’s title or position, date and telephone number.

INFORMATION AND INSTRUCTIONS For Completing The “Two- Year Vendor Certification and Disclosure of Political Contributions” Forms

USEFUL DEFINITIONS FOR THE PURPOSES OF Ch. 51 and E.O. 117

- “**Vendor**” means the contracting entity.
- “**Business Entity**” means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. The definition also includes (i) if a business entity is a for-profit corporation, any officer of the corporation and any other person or business entity that owns or controls 10% or more of the stock of the corporation; (ii) if a business entity is a professional corporation, any shareholder or officer; (iii) if a business entity is a general partnership, limited partnership or limited liability partnership, any partner; (iv) if a business entity is a sole proprietorship, the proprietor; (v) if the business entity is any other form of entity organized under the laws of New Jersey or any other state or foreign jurisdiction, any principal, officer or partner thereof; (vi) any subsidiaries directly or indirectly controlled by the business entity; (vii) any political organization organized under 26 U.S.C.A. § 527 that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (viii) with respect to an individual who is included within the definition of “business entity,” that individual’s spouse or civil union partner and any child residing with that person.¹
- “**Officer**” means a president, vice-president with senior management responsibility, secretary, treasurer, chief executive officer, or chief financial officer of a corporation or any person routinely performing such functions for a corporation. Please note that officers of non-profit entities are excluded from this definition.
- “**Partner**” means one of two or more natural persons or other entities, including a corporation, who or which are joint owners of and carry on a business for profit, and which business is organized under the laws of this State or any other state or foreign jurisdiction, as a general partnership, limited partnership, limited liability partnership, limited liability company, limited partnership association, or other such form of business organization.
- “**Reportable Contributions**” are those contributions, including in-kind contributions, in excess of \$300.00 in the aggregate per election made to or received by a candidate committee, joint candidates committee, or political committee; or per calendar year made to or received by a political party committee, legislative leadership committee, or continuing political committee.
- “**In-kind Contribution**” means a contribution of goods or services received by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee, which contribution is paid for by a person or entity other than the recipient committee, but does not include services provided without compensation by an individual volunteering a part of or all of his or her time on behalf of a candidate or committee.
- “**Continuing Political Committee**” includes any group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$4,300 to aid or promote the candidacy of an individual, or the candidacies of individuals, for elective public office, or the passage or defeat of a public questions, and which may be expected to make contributions toward such aid or promotion or passage or defeat during a subsequent election, provided that the group, corporation, partnership, association or other organization has been determined by the Commission to be a continuing political committee in accordance with N.J.S.A. 19:44A-8(b).

¹ Contributions made by a spouse, civil union partner or resident child to a candidate for whom the contributor is eligible to vote or to a political party committee within whose jurisdiction the contributor resides are permitted.

INFORMATION AND INSTRUCTIONS For Completing The “Two- Year Vendor Certification and Disclosure of Political Contributions” Forms

- **“Candidate Committee”** means a committee established by a candidate pursuant to N.J.S.A. 19:44A-9(a), for the purpose of receiving contributions and making expenditures.
- **“State Political Party Committee”** means a committee organized pursuant to N.J.S.A. 19:5-4.
- **“County Political Party Committee”** means a committee organized pursuant to N.J.S.A. 19:5-3.
- **“Municipal Political Party Committee”** means a committee organized pursuant to N.J.S.A. 19:5-2.
- **“Legislative Leadership Committee”** means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, or the Minority Leader of the General Assembly pursuant to N.J.S.A. 19:44A-10.1 for the purpose of receiving contributions and making expenditures.
- **“Political Party Committee”** means:
 1. The State committee of a political party, as organized pursuant to N.J.S.A. 19:5-4;
 2. Any county committee of a political party, as organized pursuant to N.J.S.A. 19:5-3; or
 3. Any municipal committee of a political party, as organized pursuant to N.J.S.A. 19:5-2.

Agency Submission of Forms

The agency should submit the completed and signed Two-Year Vendor Certification and Disclosure forms, together with a completed Ownership Disclosure form, either electronically to cd134@treas.state.nj.us or regular mail at Chapter 51 Review Unit, P.O. Box 039, 33 West State Street, 9th Floor, Trenton, NJ 08625. Original forms should remain with the Agency and copies should be sent to the Chapter 51 Review Unit.

Questions & Answers

Questions regarding the interpretation or application of Public Law 2005, Chapter 51 (N.J.S.A. 19:44A-20.13) or Executive Order 117 (2008) may be submitted electronically through the Division of Purchase and Property website at <http://www.state.nj.us/treasury/purchase/execorder134.htm>. Responses to previous questions are posted on the website, as well as additional reference materials and forms.

NOTE: *The Chapter 51 Q&A on the website **DOES NOT** address the expanded pay-to-play requirements imposed by Executive Order 117. The Chapter 51 Q&A are only applicable to contributions made prior to November 15, 2008. There is a separate, combined Chapter 51/E.O. 117 Q&A section dealing specifically with issues pertaining to contributions made after November 15, 2008, available at <http://www.state.nj.us/treasury/purchase/execorder134.htm#state>.*



State of New Jersey
Division of Purchase and Property
Two-Year Chapter 51 / Executive Order 117 Vendor Certification and
Disclosure of Political Contributions

For AGENCY USE ONLY

General Information

Solicitation, RFP or Contract No. _____ Award Amount _____

Description of Services _____

Agency Contact Information

Agency _____ Contact Person _____

Phone Number _____ Agency Email _____

Part 1: Vendor Information

Full Legal Business Name _____
 (Including trade name if applicable)

Business Type Corporation Limited Partnership Professional Corporation General Partnership
 Limited Liability Company Sole Proprietorship Limited Liability Partnership

Address 1 _____ Address 2 _____

City _____ State _____ Zip _____ Phone _____

Vendor Email _____ Vendor FEIN _____

Part 2: Public Law 2005, Chapter 51/ Executive Order 117 (2008) Certification

I hereby certify as follows:

1. On or after October 15, 2004, neither the below-named entity nor any individual whose contributions are attributable to the entity pursuant to Executive Order 117 (2008) has solicited or made any contribution of money, pledge of contribution, including in-kind contributions, company or organization contributions, as set forth below that would bar the award of a contract to the vendor, pursuant to the terms of Executive Order 117 (2008).
 - a) **Within the preceding 18 months**, the below-named person or organization has not made a contribution to:
 - (i) Any candidate committee and/or election fund of any candidate for or holder of the public office of Governor or **Lieutenant Governor**;
 - (ii) Any State, county, **municipal** political party committee; OR
 - (iii) Any **legislative leadership committee**.
 - b) **During the term of office of the current Governor(s)**, the below-named person or organization has not made a contribution to
 - (i) Any candidate, committee and/or election fund of the Governor or **Lieutenant Governor**; OR
 - (ii) Any State, county or **municipal** political party committee nominating such Governor in the election preceding the commencement of said Governor's term.
 - c) **Within the 18 months immediately prior to the first day of the term of office of the Governor(s)**, the below-named person or organization has not made a contribution to
 - (i) Any candidate, committee and/or election fund of the Governor or **Lieutenant Governor**; OR
 Any State, county, **municipal** political party committee of the political party nominating the successful gubernatorial candidate(s) in the last gubernatorial election.

PLEASE NOTE: Prior to November 15, 2008, the only disqualifying contributions include those made by the vendor or a principal owning or controlling more than 10 percent of the profits or assets of a business entity (or 10 percent of the stock in the case of a business entity that is a corporation for profit) to any candidate committee and/or election fund of the Governor or to any state or county political party within the preceding 18 months, during the term of office of the current Governor or within the 18 months immediately prior to the first day of the term of Office of Governor.

Part 3: Disclosure of Contributions Made

Check this box if no reportable contributions have been made by the above-named business entity or individual.

Name of Recipient _____	Address of Recipient _____	
Date of Contribution _____	Amount of Contribution _____	
Type of Contribution (i.e. currency, check, loan, in-kind _____)		
Contributor Name _____		
Relationship of Contributor to the Vendor _____		
Contributor Address _____		
City _____	State _____	Zip _____

If this form is not being completed electronically, please attach pages for additional contributions as necessary. Otherwise click "Add a Contribution" to enter additional contributions.

Part 4: Certification

I have read the instructions accompanying this form prior to completing this certification on behalf of the above-named business entity. I certify that, to the best of my knowledge and belief, the foregoing statements by me are true. I am aware that if any of the statements are willfully false, I am subject to punishment.

I understand that this certification will be in effect for two (2) years from the date of approval, provided the ownership status does not change and/or additional contributions are not made. If there are any changes in the ownership of the entity or additional contributions are made, a new full set of documents are required to be completed and submitted. By submitting this Certification and Disclosure, the person or entity named herein acknowledges this continuing reporting responsibility and certifies that it will adhere to it.

(CHECK ONE BOX A, B or C)

- (A) I am certifying on behalf of the above-named business entity and all individuals and/or entities whose contributions are attributable to the entity pursuant to Executive Order 117 (2008).

- (B) I am certifying on behalf of the above-named business entity only.

- (C) I am certifying on behalf of an individual and/or entity whose contributions are attributable to the vendor.

Signed Name _____ Print Name _____
Phone Number _____ Date _____
Title/Position _____

Agency Submission of Forms

The agency should submit the completed and signed Two-Year Vendor Certification and Disclosure forms, together with a completed Ownership Disclosure form, either electronically to cd134@treas.state.nj.us, or regular mail at Chapter 51 Review Unit, P.O. Box 039, 33 West State Street, 9th Floor, Trenton, NJ 08625. The agency should save the forms locally and keep the original forms on file, and submit copies to the Chapter 51 Review Unit.