

## OTHER AGENCIES

(a)

**SOUTH JERSEY TRANSPORTATION AUTHORITY  
Atlantic City Expressway****Proposed Amendments: N.J.A.C. 19:2-1.2, 2.1, 3.1, 3.2, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 4.1, 4.2, 4.3, 4.5, 5.1, 5.3, 5.4, 5.5, 5.7, 5.8, 5.9, 5.10, 6.1, 6.2, 7.3, 7.9, 9.3, and 9.5****Proposed Repeal and New Rule: N.J.A.C. 19:2-4.4****Proposed New Rules: N.J.A.C. 19:2-3.11, 5.11, 7.1, and 7.10 through 7.21****Proposed Repeals: N.J.A.C. 19:2-1.3 and 4.6**

Authorized By: Stephen F. Dougherty, Executive Director, South Jersey Transportation Authority.

Authority: N.J.S.A. 27:25A-7.q and 27:25A-21.g.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-044.

Submit written comments by July 4, 2025, to:

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The agency proposal follows:

**Summary**

The South Jersey Transportation Authority (Authority) proposes amendments to its rules and new rules and repeals that would revise, clarify, and modernize certain requirements for travelers to safely and efficiently travel on the Atlantic City Expressway (Roadway) and for businesses seeking to perform goods and services contracts for the Authority.

The amendments to Subchapter 1 would add to and clarify certain definitions impacting travel on the Atlantic City Expressway, by adding definitions for "abandoned vehicle," "hazardous material," "loitering," "Roadway," and "traffic control devices"; deleting the definition of "expressway police"; and amending "service areas" to better demarcate the service area of the Roadway. N.J.A.C. 19:2-1.3 related to route maps being available at the toll booths, administrative offices, the Frank S. Farley Service Plaza, and the Visitor Center in Atlantic City is proposed for repeal because the Authority does not maintain route maps in paper form at these locations.

The amendments at N.J.A.C. 19:2-2.1 amend the maximum speed limits on the Atlantic City Expressway, including a reduction to 55 miles from milepost 0.0 to 8.0 and adding clarification that the maximum speed limit is 65 miles per hour from milepost 8.0 to 42.19. Additionally, the amendments add statutory language regarding reductions of speed when the Atlantic City Expressway is deemed unsafe or there is a construction zone.

The amendments at Subchapter 3 amend all references of "Expressway" to "Roadway" and all references of "Expressway police" to "New Jersey State Police" (these changes are proposed throughout the chapter). The amendments also clarify that tow trucks and emergency vehicles are permitted to cross the Roadway median and cut throughs for the purposes of providing these services. Further, the amendments define the prohibition of stopping or standing on the Roadway and add a new section regarding diplomatic vehicles to the requirements of the New Jersey Motor Vehicle Commission and New Jersey law.

The proposed amendments at N.J.A.C. 19:2-4.3 remove the specific dimensions of vehicles on the Roadway and add a cross-reference to N.J.S.A. 39:3-84; additionally, the requirements for transportation of gasoline and hazardous materials and requirements for cleaning up spills

of hazardous materials on the Roadway are added at N.J.A.C. 19:2-4.4. New N.J.A.C. 19:2-4.4(b) includes a proposed \$50.00 processing fee related to all notifications submitted for transporting of gasoline and hazardous materials.

New N.J.A.C. 19:2-5.1(b) and (c) define spills of certain non-hazardous materials and requirements for cleaning up such spills on the Roadway. The proposed amendment at N.J.A.C. 19:2-5.3(c) increases the fee for the improper placement of political signs on the Roadway. Based on a review of the section, the fee for placement of political signs was last amended in August 1999, and the fee has not changed since that time. The fee is also necessary for the time, expense, manpower, and costs for the removal of the political signs by Authority employees. The proposed amendment at N.J.A.C. 19:2-5.10 clarifies that the Director of Operations is required to be contacted for approval of the installation of a roadside memorial along the Roadway. Proposed new N.J.A.C. 19:2-5.11 provides a mechanism for commercial photographers, videographers, and filmmakers to seek permission from the Authority prior to filming on the Roadway.

Proposed new N.J.A.C. 19:2-6.1(e) provides a mechanism for disputing tolls to the Authority and clarifies when emergency services vehicles are permitted toll-free passage.

The changes at Subchapter 7 adjust the Authority's purchasing requirements and regulations. Currently, the Authority does not have certain mechanisms in place related to disputed bids and disbaring bidders who are bad actors. The proposed new rules add a definition section applicable to the purchasing requirements. Further, the new rules and amendments clarify the process when purchases are under the adjusted threshold (recodified N.J.A.C. 19:2-7.4) and add a procedure to resolve bid protests, explain causes for debarment and suspension of bidders, the scope of such debarment or suspension, and disqualification of a person as a bidder. Proposed new N.J.A.C. 19:2-7.22 implements the statutory requirements at N.J.S.A. 52:34-9.5 and defines the requirements for procurement of professional architectural, engineering, and land surveying services.

The amendments to Subchapter 9 provide standards and procedures for Roadway access and occupancy permits, including a fee schedule. Proposed amendments would add requirements for escrow fees on certain projects. Additionally, the amendments increase the fee for the performance of unauthorized work on the Roadway. Based on a review of the section, the fee for unauthorized work was added to the Authority's rules in August 1999, and the fee has not changed since that time. The increased fee is necessary for the costs, employee time, and manpower needed to remove and/or repair unauthorized work completed along the Roadway.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The proposed amendments, new rules, and repeals will have a positive social impact by providing the Authority with the ability to effectively monitor and control the Atlantic City Expressway and Atlantic City International Airport and provide the Authority with the ability to assess the viability of bidders and vendors, while ensuring these bidders and vendors are providing the best quality goods and services to the Authority.

**Economic Impact**

It is not anticipated that these proposed amendments will have a significant economic impact because they merely provide for a minimal increase in fees impacting the general public. These fees could have an impact on private companies transporting dangerous or hazardous materials. Additionally, there is a proposed increased in fees for the unauthorized placement of signs and for the removal of other unauthorized installations along the Roadway, which requires employees of the Authority to remove each sign, expending time and money of the Authority. These fees would only be applicable to those individuals and/or companies placing signs and unauthorized objects along the Roadway.

**Jobs Impact**

The Authority does not anticipate that the proposed amendments, new rules, and repeals will have any impact on jobs.

**Federal Standards Statement**

A Federal standards analysis is not required because the subject matter of the proposed amendments, new rules, and repeals is authorized pursuant to State law and is not subject to Federal requirements or standards.

**Agriculture Industry Impact**

The proposed amendments, new rules, and repeals will have no impact on the agriculture industry in New Jersey.

**Regulatory Flexibility Statement**

The proposed amendments, new rules, and repeals do not impose reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. All such reporting, recordkeeping, or other compliance requirements are required pursuant to the laws of the State of New Jersey. Therefore, a regulatory flexibility analysis is not required.

**Housing Affordability Impact Analysis**

The proposed amendments, new rules, and repeals will have no impact on the affordability of housing and there is an extreme unlikelihood that the proposed amendments, new rules, and repeals would evoke a change in the average costs associated with housing, since the proposed amendments, new rules, and repeals pertain to the operation of the Atlantic City Expressway.

**Smart Growth Development Impact Analysis**

The Authority does not anticipate that the proposed amendments, new rules, and repeals will have an impact on smart growth as there is an extreme unlikelihood that they would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan since the proposed amendments, new rules, and repeals pertain to the operation of the Atlantic City Expressway.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The proposed amendments, new rules, and repeals will have no impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State, as the rules pertain solely to the operations of the Atlantic City Expressway. Accordingly, no further analysis is required.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 19:2-1.3, 4.4, and 4.6.

Full text of the proposed amendments and new rules follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

**SUBCHAPTER 1. PENALTIES AND DEFINITIONS****19:2-1.2 Definitions**

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

**"Abandoned vehicle"** means any vehicle whose occupants leave the vehicle unattended on the Roadway for any reason for any period of time.

**"Expressway police" or "police"** means any or all officers of the State Police assigned to duty on the Expressway.]

**"Hazardous material"** means any material or substance that is capable of posing a risk to health, safety, and property or as set forth at N.J.A.C. 7:1E-1.7 and 7:26-8; and 40 CFR Part 261 and 49 CFR Part 172.

**"Loitering"** means remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking aimlessly, and which also includes the colloquial expression "hanging around."

**"Roadway"** means, collectively, the Atlantic City Expressway and the Atlantic City Expressway Connector.

**"Service areas"** means those areas established by the Authority to provide services to the public. On the [Expressway] Roadway these areas

include, but are not limited to, [an intercept lot, the New Jersey State Police Barracks, the South Jersey Transportation Authority Administration Building, a restaurant, two gasoline service stations, a Visitors Center, and a farmers market, along with their parking and related facilities] the Frank S. Farley Service Plaza, located in the median at milepost 21.3 and the gasoline fueling station, and any future services located within the median between mileposts 2.8 and 4.2; along with their respective parking and related facilities.

**"Traffic control devices"** means only those signs, signals, markings, and devices approved and accepted by the Authority and placed, erected, or caused to be placed or erected, by the Authority for the purpose of regulating, warning, or guiding traffic on the Roadway.

**19:2-1.3 (Reserved)****SUBCHAPTER 2. SPEED LIMITS****19:2-2.1 Maximum speed limits**

(a) Except where otherwise posted, the maximum speed limits in force on the [Expressway] Roadway are [65] 55 miles per hour [on the main roadways,] from milepost 0.0 to 8.0; 65 miles per hour from milepost 8.0 to 42.19; 25 miles per hour on the entrance and exit ramps; and 35 miles per hour in the connector.

(b) [Maximum] The maximum speeds [of 65 miles per hour is] listed at (a) above are in effect except when such speeds are unsafe by reason of weather or highway conditions.

(c) Where signs are posted along the [Expressway indicating a lesser speed within any section, no vehicles shall be operated within the section at a speed in excess of the speed posted on such signs. Traffic fines issued in construction zones shall be doubled as per State law] Roadway prescribing a different speed than is posted or erected by the Authority or at the approval of the Authority, no vehicles within the area, zone, or section where such signs are posted or erected shall be operated in excess of the speed prescribed by said signs.

(d) Reduction of speed up to 10 miles per hour from the posted maximum speed limit is in effect, when posted, in construction zones. Traffic fines issued in construction zones shall be doubled pursuant to N.J.S.A. 39:4-203.5.

[(d)] (e) (No change in text.)

(f) Consistent with the requirements of this section, any vehicle operated on the Roadway shall, at all times, be operated at an appropriate reduced speed when specified hazards exist with respect to traffic, road, weather, or other conditions irrespective of the posted speed limit.

**SUBCHAPTER 3. OPERATION OF VEHICLES****19:2-3.1 Obedience to signs and signals**

No person shall fail, neglect, or refuse to comply with any traffic control sign, signal, or device erected or displayed by the Authority unless directed otherwise by an authorized employee of the Authority or by the [Expressway police] New Jersey State Police.

**19:2-3.2 Uniform direction of traffic**

(a) No vehicle shall be operated, backed, pushed, or otherwise caused to move in a direction which is against the normal flow of traffic on any traffic lane, acceleration lane, access ramp, or shoulder [or other roadway of the Expressway] of the Roadway unless expressly directed otherwise by an authorized employee of the Authority or by the [Expressway police] New Jersey State Police and operated in a safe manner so as not to create a hazard to other vehicles.

(b) Excepted from the provisions of this section are vehicles authorized to furnish towing and other services to disabled vehicles on the Roadway, when they are properly in use, in the performance of duties authorized by the Authority, and all other vehicles discharging emergency functions, such as ambulances and fire engines; provided, however, that this exception shall be for the sole purpose of crossing from a traffic lane carrying vehicles in one direction to a traffic lane carrying vehicles bound in the opposite

direction; and provided further, that no such excepted vehicles shall make such crossing to create a hazard to other vehicles.

(c) Nothing in this section shall prevent the Authority or the New Jersey State Police from changing the direction of traffic on the Roadway in the event of an emergency evacuation from the South Jersey region declared by the State of New Jersey or other natural disasters including, but not limited to, hurricanes and tornadoes.

#### 19:2-3.4 U-turns

No vehicles, except those performing emergency services or engaged in the performance of duties in connection with the operation of the [Expressway] Roadway, shall make a U-turn at any point on the [Expressway] Roadway.

#### 19:2-3.5 Use of median strip and roadside areas

Except as expressly authorized by the [Expressway police] New Jersey State Police or an authorized Authority employee[s], no vehicle shall be operated on, stopped on, or driven across the median strip between the roadways, including the crossovers, or on the roadside areas beyond the surfaced shoulders, except at service areas.

#### 19:2-3.6 Parking, standing, or stopping of vehicles

(a) Parking, standing, or stopping of vehicles is prohibited anywhere on the [Expressway] Roadway, except in areas designated by the Authority or in cases of emergency.

(b) (No change.)

(c) [For the purpose of this section, an] An "emergency," [is defined to exist when the vehicle in question is physically inoperable or unable to be operated safely, or when] for the purposes of this section, shall be defined and construed to exist in the following circumstances:

1. If the vehicle in question is unable to move without assistance;

2. The existence of inclement weather conditions, including, but not limited to, snow, ice, flooding, or high winds, which obstruct travel;

3. If a vehicle is mechanically disabled;

4. When the driver of the vehicle is ill or fatigued, but in; or

5. The New Jersey State Police or the Authority determines conditions exist that are deemed an "emergency." In no case shall [the] parking, standing, or stopping exceed a consecutive two-hour period, unless permitted at the sole discretion of the Authority.

(d)-(f) (No change.)

(g) Stopping of vehicles on any part of the [Expressway] Roadway for the purpose of picking up or discharging any person is prohibited.

(h) Parking of casino buses and trucks [in the appropriate intercept lot and marshalling of vehicles in designated areas shall be] and/or marshalling of vehicles or groups of people in designated areas, including the median parking area located from milepost 3.4 to 4.2 without express permission, and at the direction of the Authority, is prohibited.

(i) (No change.)

#### 19:2-3.7 Entry to and exit from the [Expressway] Roadway

No vehicle shall enter upon or leave the [Expressway project] Roadway, except at interchanges and entrance and exit ramps provided for that purpose.

#### 19:2-3.8 Vehicles involved in [accident] a crash

The operator of any vehicle upon the [Expressway] Roadway involved in [an incident] a crash resulting in injury or death to any person or damage to any property shall immediately stop the vehicle at the scene of the [incident] crash, render assistance as may be needed, and give his or her name, address, and operator's license and motor vehicle registration number to the person injured and to any officer or witness of the injury and shall make a report of the [incident in accordance with law] crash as prescribed at N.J.S.A. 39:4-129.

#### 19:2-3.9 Civil Defense regulations

Applicable Civil Defense and Emergency Management regulations, as promulgated by the Governor and the Department of Law and Public Safety of the State of New Jersey, shall be complied with on the [Expressway] Roadway.

#### 19:2-3.10 Exempt vehicles

Vehicles [which] that are operated by the [Expressway police] New Jersey State Police or by the employees or agents of the Authority while on Authority business, are exempt from the restrictions as prescribed by this [Subchapter] subchapter, as long as they are operated in a safe manner and do not create a hazard to other vehicles.

#### 19:2-3.11 Diplomatic vehicles

Vehicles owned or operated by a member or employee of a diplomatic mission, must provide all notice to the Authority as required by the New Jersey Motor Vehicle Commission, if any, and must comply with all rules and regulations for diplomatic vehicles as required pursuant to New Jersey statutes, rules, and/or regulations. In the event a diplomatic vehicle fails to abide by all applicable New Jersey statutes, rules, and/or regulations, the Authority reserves the right to take all action consistent with New Jersey statutes, rules, and/or regulations.

### SUBCHAPTER 4. RESTRICTION ON USE OF THE [EXPRESSWAY] ROADWAY

#### 19:2-4.1 Pedestrians

Pedestrians are prohibited from using or entering upon the [Expressway] Roadway at any time, except on sidewalks, footpaths, or other areas specifically designated by the Authority for that purpose.

#### 19:2-4.2 Animals

(a) No animal shall be led, ridden, or driven on the hoof upon the [Expressway] Roadway at any time, unless acting under contract or permit from the Authority. (See N.J.A.C. 19:2-4.5, Permits.)

(b) (No change.)

#### 19:2-4.3 Restricted vehicles

(a) The following vehicles are prohibited at all times from using the [Expressway] Roadway:

1. (No change.)

2. Bicycles, [every] including motor scooters or bicycles with a motor attached of 150 cubic centimeters or less piston displacement;

3.-5. (No change.)

6. Vehicles being towed or pushed, unless both the towing and towed vehicles and the connecting and control devices between them meet the requirements of the laws of New Jersey, except under the direction of the [Expressway police] New Jersey State Police;

7. (No change.)

8. Vehicles or combinations of vehicles, including any loads thereon, which exceed the following maximum vehicle dimensions]:

i. Length: 62 feet;

ii. Width: Eight feet, six inches;

iii. Height: 13 feet, nine inches;

iv. Maximum gross weight: 80,000 pounds] and weight as defined at N.J.S.A. 39:3-84.

9. (No change.)

10. Vehicles whose condition, equipment, or tires are [such as] to be considered unsafe for operation on the [Expressway] Roadway, in the judgment of the [Expressway] Authority employees or [Expressway police] New Jersey State Police; and

11. (No change.)

(b) Alternate fueled vehicles powered by liquefied petroleum gas (LPG), liquefied natural gas (LNG), or compressed natural gas (CNG) shall be permitted to use the Brigantine Connector Tunnel only when the vehicle has:

1. (No change.)

2. A vehicle alternate fuel system that conforms to applicable Federal regulations including, but not limited to, 40 CFR 85, 86, and 600, and to applicable industry standards, including the following National Fire Protection Association (NFPA) standards, incorporated herein by reference, as amended and supplemented, available at [www.nfpa.org](http://www.nfpa.org):

i. NFPA 52-Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems ([1998] 2023 Edition);

ii. NFPA 58-Standard for the Storage and Handling of Liquefied Petroleum Gases (LPG) ([1998] 2024 Edition); and

iii. NFPA 59A-Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG) ([2013] 2023 Edition);

3.-4. (No change.)

(c) Nothing in this section shall prohibit the use of electric vehicles, which meet the approval of the State of New Jersey and/or Federal government requirements, on the Roadway.

[(c)] (d) (No change in text.)

#### 19:2-4.4 Transportation of dangerous articles

(a) The transportation or shipment on the Roadway of any hazardous materials, as defined at Part 172 of the regulations of the United States Department of Transportation (49 CFR 172), shall be subject to the requirements at Parts 171 through 178 inclusive of such regulations (49 CFR 171 through 178) governing the preparation of the materials for transportation, construction of containers, packing, weighing, marking, labeling, billing, and certification of such materials.

(b) The transportation or shipment on the Roadway of radioactive materials or devices, and transportation of Division 1.1, 1.2, 1.3, and 1.4 explosives, as defined at 49 CFR 173, shall be subject to the prior written approval of the Authority. All notifications for such approval shall be made, in writing, addressed to the Director of Operations and shall provide, to the satisfaction of the Authority, that the shipment shall comply in all respects with the provisions at 49 CFR 171 through 178 and 397. The fee for processing the notification for such approval shall be \$50.00. All approvals granted shall be subject to annual renewal.

(c) The Authority reserves the right to withhold the approval pursuant to (b) above, and to prohibit entry to the Roadway of any carrier of any hazardous materials, despite compliance with the aforementioned Federal regulations or any other pertinent regulations or law, if, in the Authority's opinion, the transportation or shipment will be likely to endanger life or property.

(d) No person shall transport in excess of five gallons any gasoline or other flammable liquids in containers in private vehicles. Commercial vehicles carrying flammable liquids shall be appropriately placarded in accordance with 49 CFR 172.500. In addition, all packages transported and carrying liquids regulated within this subsection shall be labeled in accordance with 49 CFR 172.400.

(e) Any operator, owner, or lessee of a vehicle on the Roadway that contains any hazardous material shall be subject to all provisions and penalties of the United States Code, the New Jersey Statutes, and the New Jersey Administrative Code.

(f) In the event of a discharge of hazardous materials on the Roadway, all remedial efforts shall be conducted in compliance with the laws of the State of New Jersey and the rules and regulations of the New Jersey Department of Environmental Protection and/or Federal statutes and regulations.

#### 19:2-4.5 Permits

(a) Upon application, the Authority may issue, from time to time, special permits authorizing the use of the [Expressway projects] Roadway by vehicles to which such use is restricted [by] pursuant to N.J.A.C. 19:2-4.3.

(b) Every such permit shall be carried in the vehicle to which it refers, and shall be open to inspection by the [Expressway] Authority employees and the [Expressway police] New Jersey State Police.

(c) Every person operating such a vehicle on the [Expressway under] Roadway pursuant to such a permit shall comply with all the terms and conditions of the permit.

(d) Special permits issued [under] pursuant to Title 39 of the Revised Statutes shall not be valid on the [Expressway] Roadway.

(e) (No change)

#### 19:2-4.6 (Reserved)

### SUBCHAPTER 5. GENERAL REGULATIONS

#### 19:2-5.1 Waste and rubbish

(a) No person shall throw, dump, or otherwise dispose of bottles, cans, papers, garbage, rubbish, or any other waste materials of any kind or description on the [Expressway] Roadway, except in receptacles intended for that purpose. Receptacles provided along the [Expressway] Roadway are only for [travel] personal trash, no household or bulk items are permitted.

(b) Vehicles carrying material likely to spill that is not otherwise boxed, crated, bagged, or packaged must be firmly secured on all sides with a tarpaulin completely covering the material, and capable of preventing the escape of said material.

(c) No material, whether solid, liquid, or gaseous, shall be discharged on the Roadway, whether intentionally or unintentionally. This prohibition shall apply to any material being carried as cargo, whether or not for hire, and to any material that is a part of the vehicle or necessary for the operation of the vehicle or any apparatus affixed thereon, but shall not apply to ordinary vehicular emissions anticipated by the original design of the vehicle or the apparatus affixed thereto.

#### 19:2-5.3 Advertising devices, posters, placards, and signs

(a) No person shall erect, place, or display any advertising matter, posters, placards, signs, or items of any kind on the [Expressway] Roadway, or Authority property, except as otherwise authorized by the Authority. Items erected, placed, or displayed without a permit issued pursuant to N.J.A.C. 19:2-9.5, shall be subject to removal by the Authority and the imposition of fines as provided [in] at N.J.A.C. 19:2-1.1(f).

(b) (No change.)

(c) Political signs for public or private elections shall be prohibited on the [Expressway] Roadway or Authority property and candidates shall be charged a [\$5.00] \$500.00 removal fee for each sign.

(d) (No change.)

(e) Advertising on commercial vehicles is [allowed] permitted.

#### 19:2-5.4 Parades, demonstrations, picnics, and the like

(a) (No change.)

(b) Picnics, games, entertainment, sports, or other gatherings are prohibited, except in designated areas of the service areas, unless otherwise authorized, in writing, by the Authority.

#### 19:2-5.5 Use of firearms and fireworks

(a) The use, display, or discharge of any firearms, weapons, or fireworks is prohibited on the [Expressway] Roadway, except by persons authorized by the Authority or [by] law.

(b) (No change.)

#### 19:2-5.7 Sales and distribution

No persons shall enter or remain on the [Expressway] Roadway for the purpose of offering, selling, hiring, or leasing any goods, wares, merchandise, or services, whether or not such services are to be rendered for compensation, nor for the purpose of distributing samples, pamphlets, or advertising matter of any sort, except as expressly authorized by the Authority.

#### 19:2-5.8 Soliciting of alms

Soliciting of alms or contributions on the [Expressway] Roadway or Authority property is prohibited.

#### 19:2-5.9 Hitch-hiking and loitering

(a) Soliciting of rides, commonly known as hitch-hiking, is prohibited on the [Expressway] Roadway.

(b) Loitering in or about toll plazas, service areas, maintenance areas, or any other portion of the [Expressway] Roadway for any purpose is prohibited.

#### 19:2-5.10 Roadside memorial

(a) All persons who wish to install, or add to, a roadside memorial shall first contact the Authority's Director of Operations to arrange for an escort to the proposed site.



(b)-(e) (No change.)

**19:2-5.11 Filming, photography, or videotaping on the Roadway prohibited except by permit**

(a) No person shall be permitted to park, stop, stand, or travel at a slow speed in violation of N.J.S.A. 27:23-27, for the purpose of taking photographs, videos, or motion pictures (collectively, "film") for commercial purposes on the Roadway to ensure the health, safety, and welfare of motorists, the general public, and the Authority, except as provided at (b), (c), or (d) below.

(b) Notwithstanding (a) above, a person with prior written permission from the Executive Director of the Authority shall be permitted to take film in those portions of the service areas of the Roadway within the Authority's control that are not used for the moving, servicing, or parking of vehicles, provided the taking of such film does not interfere with or obstruct the movement or flow of vehicles and people lawfully on the Roadway. Such interference or obstruction includes, without limitation, the taking of such film within 100 feet of any ramp or traveled roadway portion of the Roadway. Any person wishing to take film in those portions of the Roadway that are not within the control of the Authority, such as the buildings in the service areas that are under lease, shall contact the appropriate party for approval.

(c) The Authority, through its Executive Director, or designee, may grant a permit to take film on the portions of Authority property not specified at (b) above, provided the person(s) requesting such a permit submits the following:

1. A written application to the Authority, at least two weeks prior to the date of the filming, stating the date, time, and location of the filming, names and addresses of the applicants, the number of individuals and vehicles to be present at the filming, the purpose of such filming, and any other information the Authority may deem necessary in order for it to make a determination that such filming can be conducted without a risk to the safety, traffic security, or movement of the Roadway;

2. A certificate of general liability insurance with limits of liability that the Authority deems to be acceptable given the nature and scope of the filming and endorsed to include the Authority, its officers, agents, and employees, as an additional insured;

3. A copy of the motor vehicle insurance policy for each vehicle to be used in the filming; and

4. An indemnification and hold harmless agreement signed by all persons responsible for the filming, in a form the Authority provides.

(d) The permittee shall comply with any Authority restrictions on the time, place, and manner of the filming imposed as a condition of the grant of a permit in order to ensure the safety, traffic security, or movement of the Roadway.

(e) The Authority may grant such permits in accordance with (c) and (d) above, unless the Authority determines that the time, location, or nature of such filming would create a risk to the safety, traffic security, or movement of the Roadway, and that such risk cannot be adequately controlled.

(f) In the event that a *bona fide* representative of the news media requires immediate permission to film an emergency situation on a portion of the Roadway not specified at (b) above, the Authority may grant a permit to film telephonically to the news media representative; provided:

1. The Authority has determined that such filming would not create an unreasonable risk to safety, traffic security, or movement of the Roadway; and

2. The applicant agrees to abide by certain time, place, and manner restrictions on the filming that the Authority or the New Jersey State Police may impose to ensure the safety, traffic security, or movement of the Roadway.

**SUBCHAPTER 6. TOLLS**

**19:2-6.1 Payment of tolls**

(a) (No change.)

(b) Tolls shall be paid as set forth and in the manner prescribed by the Authority at each toll, which may be by currency, coin, or electronic toll

collection for the passage of all vehicles on the [Expressway] Roadway in amounts and at the locations designated by the Authority, except at locations designated as E-Z Pass only.

(c) No person shall place or insert any plastic, paper, cloth, wadding, or other article, object, material, substance, instrument, or contrivance within the coin-receipt chute or in any other part of an automatic toll collection machine on the [Expressway] Roadway, including entrance and exit ramps, in such a manner as to prevent, interfere with, or obstruct the receipt of coins deposited therein by the patrons of the [Expressway] Roadway, or in such manner as to cause such coins to be uncollected or unlawfully returned, or, by any other means or devices whatsoever, to prevent or contrive to prevent the receipt of coins by such automatic toll collection machine, or to place or insert, in any part of such machine any article, substance, contrivance, or device in such manner as to obstruct, alter, injure, or interfere with the action or operation of such machine, or, by any device or contrivance, or in any manner whatsoever, to obstruct, alter, injure, or interfere with the action or operation of such machine.

(d) No person shall collect, gather, or pick up any currency, coins, tokens, or scrips in the area of an automatic toll collection machine on the [Expressway] Roadway, including entrance and exit ramps, in such a manner as to cause such currency, coins, tokens, or scrips to be uncollected by, or unreturned to, the Authority.

(e) Disputes concerning payment of tolls on the Roadway shall be directed to the Authority's Tolls Operations Manager within 15 days of the payment of the toll. The traveler paying the toll shall submit, in writing, the reasons for the dispute. The Authority shall provide a written decision to the traveler within 30 days following the traveler's written submission disputing the payment of the toll.

**19:2-6.2 Toll-free passage**

(a) Unless specifically authorized by the Authority, no toll-free passage through toll collection points on the [Expressway] Roadway will be permitted, except for the following:

1. (No change.)

2. Vehicles carrying persons to or from destinations on the [Expressway] Roadway where such persons are required by law to perform specified functions on the [Expressway] Roadway;

3. (No change.)

4. Ambulance, first aid, or emergency aid vehicles, vehicular [fire fighting] firefighting apparatus, law enforcement, or other similar vehicles (Emergency Services Vehicles) operated for the benefit of the public by the State or such Emergency Services Vehicles that are operated by any county or municipality, charitable or nonprofit corporation or organization, first aid squad, emergency squad, or fire company of this State.

(b) All operators of vehicles that are identified [in] at (a)2, 3, and 4 above must make written application to the Executive Director prior to enjoying toll-free passage. All applications will be reviewed by the Executive Director to [insure] ensure the operation of the vehicles qualify for toll-free passage.

**SUBCHAPTER 7. PURCHASING REGULATIONS**

**19:2-7.1 Definitions**

As used in this subchapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Debarment" means to be prohibited for a finite period of time from bidding or otherwise submitting a proposal regarding all Authority contracts on the basis of the list of offenses, inadequacies, or omissions described in this subchapter.

"Disqualification" means to be prohibited from bidding or otherwise submitting a proposal regarding a particular Authority contract.

"Person" means any natural person, corporation, partnership, company, firm, association, or other entity. Person also includes any partners of the partnership, and any principals of the corporation, company, firm, association, or other entity.

"Suspension" means to be prohibited for a finite period of time from bidding or otherwise submitting a proposal regarding all Authority contracts, pending the completion of an investigation or

legal proceeding relating to certain offenses, inadequacies, or omissions described in this subchapter.

Recodify existing 19:2-7.1 and 7.2 as 7.2 and 7.3 (No change in text.)

#### 19:2-[7.3]7.4 Purchases under the adjusted threshold

(a) In the case of purchases of personal property or services where the aggregate cost, contract price, or amount involved is less than the bid threshold, but 15 percent or more of that amount, [written bids shall be solicited from qualified vendors.] the Authority shall award the contract after soliciting at least two competitive quotations, if practicable. The award shall be made to the vendor whose response is most advantageous, price and other factors considered.

(b)-(d) (No change.)

(e) The procedures set forth in this section shall not be used as a means to evade or avoid the requirements for public advertising set forth [in] at N.J.A.C. 19:2-[7.2]7.3.

Recodify existing 19:2-7.4, 7.5, 7.6, and 7.7 as 7.5, 7.6, 7.7, and 7.8 (No change in text.)

#### 19:2-7.9 Towing services

(a) Pursuant to N.J.A.C. 19:2-[7.1]7.2, all contracts between the Authority and towing service providers, which are required by law to be publicly advertised, shall be made or awarded directly by the Authority after public advertisement for bids.

(b)-(c) (No change.)

#### 19:2-7.10 Procedure to resolve protested solicitations and awards

(a) Any actual or prospective bidder, proposer, or contractor who is aggrieved in connection with the solicitation or award of a contract or its prequalification status or classification may protest to the Authority. The protest shall be submitted, in writing, within five days after such an aggrieved person knows, or should have known, of the facts giving rise thereto. Failure to file a timely protest shall bar any further action. The written protest shall set forth in detail, the facts upon which the protestant bases its protest.

(b) Upon the filing of a timely protest, the Executive Director, or his or her designee, shall have the authority, but not the obligation, to conduct a hearing, to settle and resolve a protest of an aggrieved bidder, proposer, or contractor concerning the solicitation or award of a contract or its prequalification status or classification, with the Executive Director retaining authority for the final decision of the Authority. Any such hearing may be conducted on written submissions, or through an in-person informal conference, as determined in the discretion of the Executive Director, or his or her designee, as deemed necessary based upon the nature of the protest.

(c) If the protest is not resolved by mutual agreement, the Executive Director, or his or her designee, shall promptly issue a written decision. The decision shall state the determination made and reasons for the action taken. The decision shall be mailed or furnished promptly to the protestant and any other interested party.

(d) A decision pursuant to (c) above shall be final and conclusive, unless any person adversely affected by the decision commences an action in court.

(e) In the event of a timely protest pursuant to (a) above, the Authority shall not proceed further with the solicitation, or with the award of the contract until the decision is rendered pursuant to (c) above, or until the Executive Director, or his or her designee, after consultation with the Director of Procurement or Chief Engineer, makes a written determination that the continued solicitation or award of the contract without delay is necessary to protect the interest of the Authority or the public.

#### 19:2-7.11 Causes for debarment

(a) In the interest of the public, the Authority may debar a person for any of the following reasons:

1. Commission of a criminal offense as an indictment to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;

2. Violations of the Federal Organized Crime Control Act of 1970, Pub. L. 91-452, or commission of embezzlement, theft, forgery,

bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;

3. Violation of Federal or State antitrust statutes, or the Federal Anti-Kickback Acts (18 U.S.C. § 874 and 40 U.S.C. § 276b and c);

4. Violations of any of the law governing the conduct of elections of the Federal government, State of New Jersey, or of its political subdivision;

5. Violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., or of the act banning discrimination in public works employment, N.J.S.A. 10:2-1 et seq., or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein, N.J.S.A. 10:1-10 et seq.;

6. Violations of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, child labor, or other labor standards;

7. Violation of any laws governing the conduct of occupations or professions or regulated industries;

8. Violation of any environmental laws;

9. Violation of any other laws, the violation of which may demonstrate a lack of moral integrity, or actions, which, in the reasonable opinion of the Authority, which would shed doubt on the moral integrity of the person;

10. Willful failure to perform in accordance with contract specifications or within contractual time limits;

11. A record of failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

12. Violation of a contractual or statutory provision regulating contingent fees;

13. Any other cause affecting the responsibility as a contract of such serious and compelling nature as may be determined by the Authority to warrant debarment, including such conduct as may be prescribed by law or contracts enumerated in this section, even if such conduct has not been or may not be prosecuted as violations of such laws or contracts; or

14. Debarment by an agency, authority, or commission of the State of New Jersey or of the United States or a final determination by any such agency, authority, or commission that such person has committed an act demonstrating a lack of moral integrity.

(b) In the public interest, the Authority may debar a vendor for violation of any of the following prohibitions or vendor activities or for breach of any of the following affirmative obligations:

1. No vendor shall 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 any State officer or employee or special State officer or employee, as defined at N.J.S.A. 52:13D-13.b and e, to any officer or employee of the Authority or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined at N.J.S.A. 52:13D-13.i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning at N.J.S.A. 52:13D-13.g.

2. The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by a State officer or employee, special State officer or employee, or Authority officer or employee from any vendor shall be reported, in writing, forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

3. Unless a waiver has been granted in accordance with (b)4 below, no vendor may, directly or indirectly, undertake any private business, commercial, or entrepreneurial relationship with, whether or not pursuant to employment, contract, or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee, special State officer or employee, or Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition, or sale of any property or services by or to any

State agency, or any instrumentality thereof, or with any person, firm, or entity with which he or she is employed or associated or in which he or she has an interest within the meaning at N.J.S.A. 52:13D-13.g.

4. Any relationship subject to the provisions at (b)3 above 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 State officer or employee, special State officer or employee, or Authority officer or employee, upon a finding that the present or proposed relationship does not present the potential, actual, or appearance of a conflict of interest.

5. No vendor shall influence, attempt to influence, or cause to be influenced, any State officer or employee, special State officer or employee, or Authority officer or employee in his or her official capacity, of any manner that might tend to impair the objectivity or independence of judgment of said officer or employee.

6. No vendor shall cause or influence, or attempt to cause or influence, any State officer, special State officer or employee, or Authority officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the vendor or any other person.

#### 19:2-7.12 Conditions affecting debarment

(a) The following conditions shall apply concerning debarment:

1. Debarment shall be made only upon approval of the Board, except as otherwise provided by law.

2. The existence of any of the causes set forth at N.J.A.C. 19:2-7.11 shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Board, unless otherwise required by law, and shall be rendered in the best interests of the Authority.

3. All mitigating factors shall be considered in deterring the seriousness of the offense, failure, or inadequacy of performance and in deciding whether debarment is warranted.

4. The existence of a cause set forth at N.J.A.C. 19:2-7.11(a)1 through 8 shall be established upon the rendering of a final judgment or conviction, including, but not limited to, a guilty plea or plea of *nolo contendere* by a court of competent jurisdiction or by an administrative agency empowered to render such judgment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

5. The existence of a cause set forth at N.J.A.C. 19:2-7.11(a)9, 10, 11, and 12 shall be established by evidence that the Authority determines to be clear and convincing in nature.

6. Debarment for the cause set forth at N.J.A.C. 19:2-7.11(a)13 shall be proper; provided that one of the causes set forth at N.J.A.C. 19:2-7.11(a)1 through 12 or (b), or an equivalent cause within the jurisdiction of the original debarring agency or governmental entity, was the basis for debarment by the original debarring agency or governmental entity. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts deduced by the Authority.

#### 19:2-7.13 Procedures, periods of debarment, and scope of debarment

(a) When the Authority seeks to debar a person, or his or her affiliates, the Authority shall furnish such party with a written notice stating:

1. That debarment is being considered;
2. The reasons for the proposed debarment; and

3. That such party will be afforded an opportunity for a hearing before the Authority if he or she requests, within 14 days of the date of personal delivery or 17 days from the date of mailing such notice by the Authority. All such hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Notwithstanding the requirements set forth at (a) above, where another department or agency of the State of New Jersey has imposed

debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing; provided that the Authority furnishes notice of the proposed similar debarment to the party, and affords that party an opportunity to present information on his or her behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

(c) Debarment shall be for a reasonable, finite period of time, which shall not exceed an initial period of five years. If the Authority determines, in its discretion, that after the expiration of the initial period of debarment an additional period of debarment is warranted, such additional debarment period shall be permitted; provided that notice thereof is furnished and the party is afforded an opportunity to contest the proposed further debarment in accordance with the procedures set forth at (a) above. Such additional period of debarment shall be for a reasonable, finite period of time, which shall not exceed five years.

(d) Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced in the discretion of the Authority upon the submission of a good faith application under oath, supported by documentary evidence setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management, or control, or the elimination of the cause(s) for which the debarment was imposed.

(e) A debarment may include all known affiliates of a person; provided that each decision to include an affiliate is made on a case-by-case basis after providing that affiliate with an opportunity to contest such proposed debarment in accordance with the procedure set forth at (a) above.

#### 19:2-7.14 Causes for suspension

In the public interest, the Authority may suspend a person for any causes specified at N.J.A.C. 19:2-7.11 or upon reasonable suspicion that such cause exists.

#### 19:2-7.15 Conditions for suspension

(a) The following conditions concerning suspension are to be adhered to:

1. Suspension shall be imposed only upon approval of the Board of Commissioners of the Authority;

2. The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the Authority and shall be rendered in the best interest of the Authority;

3. Suspension shall not be based upon unsupported accusation, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists. In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence that is available, to the existence or absence of corroboration as to important allegations, and to inferences that may properly be drawn from the existence or absence of affirmative facts;

4. Reasonable suspicion of the existence of cause described at N.J.A.C. 19:2-7.11(a)1 through 8 may be established by the rendering of a final judgment or conviction by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur; and

5. A suspension invoked by another agency or authority or commission of the State of New Jersey or of the United States for any of the causes described at N.J.A.C. 19:2-7.11 may be the basis for the imposition of a concurrent suspension by the Authority.

#### 19:2-7.16 Procedures, period of suspension, and scope of suspension

(a) The Authority may suspend a person, or his or her affiliates; provided that within 10 days after the effective date of the suspension, the Authority provides such party with a written notice stating:

1. That a suspension has been imposed and its effective date;
2. The reasons for the suspension;

3. That suspension is for a temporary period, pending the completion of an investigation and such legal proceedings; and

4. That if such legal proceedings are not commenced or the suspension is not removed within 60 days of the date of such notice from the Authority, the party will be given a statement of the reasons for the continuation of the suspension and an opportunity for a hearing before the Authority conducted in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) A suspension pursuant to (a) above shall not continue beyond 18 months from its effective date unless civil or criminal action regarding the alleged violation shall have been initiated within that period, or unless a debarment action has been commenced. Whenever prosecution or a debarment action has been initiated, the suspension may continue until the legal proceedings are completed.

(c) A suspension may include all known affiliates of a person; provided that each decision to include an affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances and after providing such affiliate(s) an opportunity for a hearing before the Authority.

#### 19:2-7.17 Extent of debarment or suspension

(a) The exclusion from contracting by virtue of debarment or suspension shall extend to all contracting and subcontracting within the control or jurisdiction of the Authority, including, but not limited to, any contracts that utilize Authority funds. When it is determined by the Authority to be essential to the public interest, an exception from total exclusion may be made with respect to a particular contract.

(b) After the opening of bids or receipt of proposals, the contracting officer shall review the list of persons debarred or suspended. Bids received from debarred or suspended persons in response to an invitation for bids shall be rejected unless the Authority determines that there is a compelling reason to consider the bid.

(c) Proposals, quotations, or offers received from any debarred or suspended person shall not be evaluated for award, nor shall discussions be conducted with a debarred or suspended person, unless the Authority determines that there is a compelling reason to do so. If the period of ineligibility expires or is terminated after bid opening but prior to the award, the contracting officer may, but is not required, to consider such proposals, quotations, or offers.

#### 19:2-7.18 Disqualification of a person as a bidder

(a) The Authority reserves the right to disqualify or refuse to receive a proposal from a prospective bidder even though the prospective bidder is prequalified, and even though the prospective bidder has not been debarred or suspended, or reject a proposal after having received same for any of the following reasons:

1. Lack of competency or lack of adequate machinery, plant, or other equipment;
2. Uncompleted work which, in the judgment of the Authority, might hinder or prevent the prompt completion of additional work, if awarded;
3. Failure to pay, or satisfactorily settle, all bills due for labor, equipment, or material on previous contracts;
4. Failure to comply with any prequalification requirements, bid specifications, or rules of the Authority;
5. Default under any previous contract;
6. Unsatisfactory performance on previous or current contracts;
7. Questionable moral integrity, as determined by the Attorney General of New Jersey or the Authority;
8. Failure to reimburse the Authority for monies owed on any previously awarded contracts including, but not limited to, those where the prospective bidder is a party to a joint venture and the joint venture has failed to reimburse the Authority for monies owed;
9. Submission of false information to the Authority in connection with the proposal or any other contract; or
10. Any cause specified at N.J.A.C. 19:2-7.11 or upon reasonable suspicion that such cause exists.

#### 19:2-7.19 Lists of other agencies

Notwithstanding the failure of the Authority to debar, suspend, or disqualify any person pursuant to this subchapter, whenever the Authority participates in any program or project financed, issued, or guaranteed by any department, agency, or instrumentality of the State of New Jersey or the United States government, it may rely on any list of persons suspended or debarred by such agency, department, or instrumentality and prevent the listed person from participating in that program or project.

#### 19:2-7.20 Discretion

Nothing in this subchapter shall be construed to limit the authority of the Authority to refrain from contracting within the discretion allowed by law.

#### 19:2-7.21 Prequalification and award of contracts for architectural, engineering, and land surveying services

(a) This section shall apply to contracts for architectural, engineering, and land surveying services that are not subject to N.J.A.C. 19:7. The Authority may choose to apply this section to contracts below the public bidding threshold as set forth at N.J.S.A. 27:25A-8 in its sole discretion. The Authority may use procurement processes other than those prescribed in this section if those processes have been approved by the Federal government or other State statute, rule, or executive order, or if an emergency has been declared by the Executive Director. Where a procurement involves the proposed use of Federal funds, and Federal law, regulations, or guidelines require a procurement procedure other than those prescribed in this section, the Authority shall follow the Federal procedures. All procedures provided for in this subchapter that are consistent with Federal requirements shall be followed.

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

"Complex projects" means projects other than "simple projects," and includes most projects involving transportation, planning or complex design, or any project having an estimated fee over \$2,000,000.

"Consultant Review Committee" means the committee assigned to review a contract for professional architectural, engineering, and land surveying services, which shall include the Director and other such members designated by the Director and approved by the Executive Director.

"Director" means either the Chief Engineer or Director of Operations, depending on whether the contract emanates from the Engineering Department or Operations Department.

"EOI" means an expression of interest from firms interested in performing professional architectural, engineering, and land surveying services for the Authority.

"Firm" means any individual, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to provide professional architectural, engineering, or land surveying services in this State.

"Professional architectural, engineering, and land surveying services" means those services, including, but not limited to, planning, design, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering, or professional land surveying as defined by the laws of this State or those services performed by an architect, professional engineer, or professional land surveyor in connection with his or her professional employment practice, and which are subject to N.J.S.A. 52:34-9.1 et seq.

"Simple projects" means projects or other engineering services where the scope can be clearly defined and is not likely to change during the course of the project where the estimated fee is \$2,000,000 or less. Simple projects include, but are not limited to, bridge inspection projects, supervision of construction projects, and highway and bridge design projects with an estimated fee of \$2,000,000 or less.

(c) Professional services prequalification requirements shall be as follows:



1. A firm interested in a contract for professional architectural, engineering, or land surveying services shall complete and file a Professional Service Prequalification Questionnaire (PSPQ) with the Authority. Firms qualified for a particular type of project based on the Authority's evaluation of the PSPQs will be eligible for consideration when such projects are being contracted for by the Authority without having to present their qualifications on a project-specific basis.

2. For the procurement of general consultants, rather than a project-specific procurement, the procedures relating to prequalification of firms may be modified to address the needs and requirements of the Authority.

3. Each firm shall identify on the PSPQ each type of work for which the firm desires prequalification. All PSPQs shall include the following information:

- i. Current and past projects undertaken by the firm;
- ii. The nature of services provided on each project;
- iii. The qualifications of the professionals employed by the firm; and
- iv. Other information, which the Authority may determine necessary to assess the firm's qualifications.

4. A firm shall notify the Authority, in writing, of any substantial change in the information on its PSPQ when such change occurs. A firm shall have a current PSPQ on file with the Authority on the date of the EOI submittal in order to be considered for a project. For purposes of this section, a current PSPQ is one that has been on file with the Authority for no more than 24 months.

(d) Expression of interest solicitation and/or advertisement shall be as follows:

1. A Request for EOIs shall be advertised in an appropriate newspaper or journal, having a large circulation in the State and/or advertised on the Authority's website, or through other electronic means. Such advertisements shall be published not less than seven calendar days preceding the date upon which the EOIs are to be received. The Request for EOIs shall identify the scope of services required from the prequalified firms and the evaluation process to be used for the project. When the Authority seeks to engage more than one firm through a single Request for EOIs, the number of firms that the Authority intends to engage shall be identified in the Request for EOIs.

2. When general consultant services are needed, the Authority shall establish a list of criteria that firms must meet in order to be sent the Request for EOIs for the general consultant contract. Firms that meet such criteria shall be sent the Request for EOIs.

(e) Evaluation of EOIs shall be as follows:

1. Upon receipt of the EOIs, the Authority shall review the EOIs for completeness and shall reject those EOIs that are incomplete. The Authority shall notify all firms, in writing, whose EOIs are determined to be incomplete. For all projects, if fewer than three EOIs are deemed complete, the EOI solicitation may be rewritten and/or re-solicited, or the procurement may continue with fewer than three firms, as determined by the Executive Director, in consultation with the Director;

2. For simple projects, the technical evaluation process shall consist of the evaluation of EOIs in accordance with the procedures set forth in this section;

3. For complex projects, the evaluation of EOIs shall serve as a method by which to create a list of firms that shall receive the requests for proposals (RFPs) for the project. If only three or four EOIs have been deemed complete by the Authority, these firms shall receive the RFP and the Consultant Review Committee will not conduct an evaluation of the EOIs as set forth below. If more than four EOIs have been deemed complete, the EOIs shall be submitted to the Consultant Review Committee for review as set forth at (e)4 below;

4. The EOIs shall be ranked by the Consultant Review Committee on the basis of numerical scores resulting from weighted rating factors. These factors will be weighted in proportion to their relative importance on a project-by-project basis. The relative weight attributed to each rating factor for a particular project and the ranking methodology shall be set forth in the Request for EOIs. In

ranking the EOIs, the Consultant Review Committee may consider criteria included in the Request for EOIs, including, but not limited to:

- i. Experience of the firm on similar projects;
- ii. Experience of the project manager or resident engineer on similar projects;
- iii. Key personnel's qualifications and relevant experience;
- iv. Understanding of the project and the Authority's needs;
- v. Approach to the project;
- vi. Commitment and ability to perform the proposed work and outstanding work with the Authority;
- vii. Commitment to quality management;
- viii. Attainment of Small Business Enterprise goals; and
- ix. Any other factors specified in the Authority's EOI solicitation;

5. For simple projects, once the Consultant Review Committee has ranked the EOIs, it shall require the top three or more technically ranked firms, which number of firms shall be at the discretion of the Director, to provide their proposed fees in a separate envelope. The firms shall not be told of their ranking position at this time. The selection process shall continue in the manner described at (g) below. If a particular simple project warrants, the Director may elect to issue an RFP and the selection process shall proceed in accordance with the process for complex projects;

6. For complex projects, after the evaluation and ranking of the EOIs, no fewer than the top three ranked firms shall receive an RFP. All firms that are not to receive the RFP shall be notified; and

7. When the Authority is seeking to engage more than one firm through a single solicitation of EOIs, following the Consultant Review Committee's evaluation of the EOIs, it shall prepare a list of a sufficient number of technically qualified firms to enable the Authority to engage the number of firms identified in the Request for EOIs. If the Consultant Review Committee is unable to prepare a list of technically qualified firms in a sufficient number to negotiate with and engage the number of firms identified in the Request for EOIs, the Authority shall reduce the number of firms it is seeking to engage through the EOI, and/or reissue the Request for EOIs, in whole or in part. The Consultant Review Committee shall negotiate with firms in the same manner as described at (g) below.

(f) Requests for proposals (RFPs) shall be evaluated as follows:

1. Responses to the RFP shall be comprised of the technical proposal and fee proposal. The firms receiving the RFP shall be directed to submit a detailed fee proposal in a separate sealed envelope at the time of submission of the technical proposal;

2. The Consultant Review Committee shall evaluate the technical proposals submitted to the Authority. The Consultant Review Committee shall rank the technical proposals on the basis of numerical scores using the rating criteria specified in the RFP. The relative weight attributed to each rating factor and the methodology for ranking firms shall be set forth in the RFP; and

3. The Consultant Review Committee may require an interview and/or presentation by the firms with the highest ranked proposals. The Director, in his or her discretion, may waive this requirement for a particular project. Subsequent to the interview and/or presentation, the Consultant Review Committee shall revisit its technical ranking of the firms, re-score, as appropriate, and shall thereupon recommend the highest ranked firms to the Director, or the Executive Director if the Director was a member of the Consultant Review Committee.

(g) Cost negotiation and final selection shall be as follows:

1. For all projects, upon reviewing the Consultant Review Committee's recommendation, the Director or the Executive Director shall either concur with the selections or direct the Consultant Review Committee to pursue additional evaluation measures, consistent with the EOI solicitation or RFP, which shall be specified, in writing, by the Director or the Executive Director;

2. Once the selections are approved, the selected firms' fee proposals will be reviewed by the Consultant Review Committee. The Executive Director may add one or more persons to the Consultant Review Committee to assist in the negotiation process. Using all fee proposals and the engineer's estimate as a guideline, the Consultant

Review Committee shall negotiate a fair and reasonable fee with the highest technically ranked firm, taking into consideration all relevant factors, including, but not limited to, the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. If the Consultant Review Committee is unable to negotiate a fair and reasonable fee with the highest technically ranked firm, it shall formally terminate negotiations and undertake negotiations with the second highest technically ranked firm. Failing accord with the second highest technically ranked firm, the Consultant Review Committee shall formally terminate negotiations and undertake negotiations with the third highest technically ranked firm. If the Consultant Review Committee is unable to negotiate successfully with any of the three highest technically ranked firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with the procedure set forth in this section until an agreement is reached. The Executive Director, upon consultation with the Director, may direct the Consultant Review Committee to re-solicit the contract. Once a final fee is agreed upon, the Consultant Review Committee shall make its recommendation to the Director;

3. The Consultant Review Committee in consultation with the Director shall prepare a written report outlining its recommendations and activities in reviewing, negotiating, and selecting the recommended firm. The Director shall submit the Consultant Review Committee's report to the Executive Director;

4. If the Executive Director concurs with the recommendation, the Executive Director shall recommend to the Board, in writing, that the firm be issued an Order for Professional Service; and

5. If the Executive Director is not satisfied with the recommendation, he or she may:

- i. Instruct the Consultant Review Committee to submit further support for its recommendation;
- ii. Direct the Consultant Review Committee to re-negotiate the fee;
- or
- iii. Instruct the Director to re-solicit the contract.

## SUBCHAPTER 9. HIGHWAY ACCESS AND OCCUPANCY PERMITS

### 19:2-9.3 Fee schedule

(a)-(b) (No change.)

(c) Escrow may be collected, as determined by the Director of Engineering, on a case-by-case basis prior to the issuance of an access or occupancy permit. Escrow fees will be calculated and based on an applicant's proposed project schedule as follows:

1. New Jersey State Police presence for lane/shoulder closures may be collected and charged on a per-hour basis to include a New Jersey State Police trooper and vehicle; and

2. Inspection fees may be collected if, in the opinion of the Director of Engineering, it is necessary to utilize the services of an Authority-approved consultant to perform resident engineer and/or inspection services to ensure the Authority's best interests are maintained during the course of work being performed pursuant to an access or occupancy permit.

### 19:2-9.5 Unauthorized installations

Anyone performing work upon the [Expressway] Roadway or Authority property without the access or occupancy permit required [by] pursuant to N.J.A.C. 19:2-9.3 shall stop work immediately when so ordered by Authority staff. The Authority shall inspect all work performed on the [Expressway] Roadway or Authority property and make a recommendation for removal, restoration, remediation, and/or submission of required permit application and associated fees. Any person or persons performing unauthorized work on the [Expressway] Roadway or Authority property shall pay a [\$1,000] \$5,000 fee for performing such unauthorized work and shall submit an application for the appropriate permit to remove, restore, or remediate and/or continue construction work as approved by the Director of Engineering. All associated fees [in] at N.J.A.C. 19:2-9.3 shall also apply. All fees shall be nonrefundable.