

3. All records concerning applications for employment with the Authority;

4. All records concerning personal, financial or proprietary information submitted by applicants for Authority assistance;

5. All records concerning personal, financial or proprietary information submitted by individuals, corporations, partnerships and other entities doing or seeking to do business with the Authority;

6. All reports, correspondence and other documents or data provided or discussed at the Executive Session of the meetings held by the Members, except that any action taken or other information required to be disclosed to the public pursuant to N.J.S.A. 10:4-6 et seq. shall not be deemed to be nonpublic records within the scope of this section; and

7. Any other reports, correspondence or other documents or data where the Authority finds that nondisclosure is necessary for the protection of the public interest.

New Rule R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

#### 19:30-1.6 Petitions for rules

Pursuant to N.J.S.A. 52:14B-4(f), interested persons may petition the Authority for the promulgation, amendment or repeal of any rule by the Authority.

New Rule R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

#### 19:30-1.7 Procedure for petitioner

(a) Any person who wishes to petition the Authority to promulgate, amend or repeal a rule must submit to the Executive Director, in writing and signed by the petitioner, the following information:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request and the petitioner's interest in the matter, including any relevant organization, affiliation, or economic interest; and
4. The statutory authority under which the Authority may take the requested action.

(b) The petitioner shall send the petition to the following address:

Executive Director  
New Jersey Economic Development Authority  
200 S. Warren St., CN 990  
Trenton, N.J. 08625

(c) Any materials submitted to the Authority not in substantial compliance with (a) and (b) above shall not be

deemed to be a valid petition for rulemaking requiring further action pursuant to N.J.S.A. 52:14B-4(f).

New Rule R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

#### 19:30-1.8 Procedure of the Authority

(a) Upon receipt of a petition in compliance with N.J.A.C. 19:30-1.6 and 1.7, the Authority shall file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register, to include:

1. The date the petition was received by the Authority;
2. The name and address of the petitioner;
3. The substance or nature of the rulemaking which is requested; and
4. The problem or purpose behind the request.

(b) Within 30 days of receiving the petition, the Authority shall mail to the petitioner and file with the Office of Administrative Law for publication in the New Jersey Register a notice of action on the petition which will include:

1. The name of the petitioner;
2. Certification by the Executive Director that the petition was considered pursuant to law;
3. The substance or nature of the Authority action; and
4. A brief statement of reasons for the Authority action.

(c) Authority action on a petition may include:

1. Denying the petition;
2. Filing a notice of proposed rule or a notice of pre-proposal for a rule with the Office of Administrative Law; or
3. Referring the matter for further deliberations, the nature of which will be specified and which will conclude upon a specified date. The results of these further deliberations will be mailed to the petitioner and submitted to the Office of Administrative Law for publication in the New Jersey Register.

New Rule R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).  
Amended by R.1995 d.435, effective August 21, 1995.  
See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

## SUBCHAPTER 2. DISQUALIFICATION/ DEBARMENT/CONFLICT OF INTEREST

### 19:30-2.1 Definitions

(a) For the purposes of this subchapter, the following words and terms shall have the following meanings.

"Affiliates" means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

"Authority project contracting" means any arrangement giving rise to an obligation to perform any service in connection with the construction of a project financed with, and paid for in whole or in part with Authority assistance, including the service of architects, engineers and professional planners.

"Debarment" means an exclusion from contracting with the Authority and exclusion from Authority project contracting on the basis of a lack of responsibility evidenced by an offense or inadequacy of performance for a reasonable period of time commensurate with the seriousness of the offense.

"Disqualification" means an exclusion from receiving Authority financial assistance or from being a tenant in an Authority-financed project.

Amended by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section recodified from 5.1.

Inadequacy of performance replaced failure as basis for debarment; definition for disqualification added.

#### 19:30-2.2 Causes for disqualification/debarment of persons

(a) The Authority may decline to give financial assistance, or approval as a tenant in any Authority-financed project, to any person, or may debar a person from Authority project contracting for any of the following causes:

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

2. Violation of the Federal Organized Crime Control Act of 1970, 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 the Federal or State antitrust statutes, or of the Federal Anti-Kickback Act; (18 U.S.C. 874);

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

5. Violation of the "Law Against Discrimination" (P.L. 1945, c.169, N.J.S.A. 10:5-1 et seq., as supplemented by P.L. 1975, c.127), 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 (c.114, L.1942, N.J.S.A. 10:1-10 et seq.);

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

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

8. Violation of any law which may bear upon a lack of responsibility or moral integrity;

9. Any other cause of such serious and compelling nature as may be determined by the Authority to warrant disqualification for assistance or debarment from contracting with the Authority or from Authority project contracting;

10. Debarment by any department, agency, or instrumentality of the State or Federal government;

11. Violation of any of the following prohibitions on vendor activities representing a conflict of interest, or failure to report a solicitation as set forth in (a)11ii below:

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

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

iii. No person 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 person to, any Authority officer or employee or special 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 the Authority, 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 of N.J.S.A. 52:13D-13g. Any relationships subject to this subsection shall be reported in writing to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the Authority officer or employee or special Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

iv. No person shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee or special Authority officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of the officer or employee.

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

(b) The provisions in (a)11 above shall not be construed to prohibit an Authority officer or employee or special Authority officer or employee from receiving gifts from or contracting with persons under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

Amended by R.1989 d.207, effective April 17, 1989.  
See: 21 N.J.R. 129(a), 21 N.J.R. 1022(a).

(a)11 and (b) added, prohibitions on vendor activities representing conflicts of interest.

Amended by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section recodified from 5.2.

Tenancy or other disqualification/debarment may be denied based on any cause in (a), including failure to report solicitation.

Amended by R.1995 d.435, effective August 21, 1995.

See: 27 N.J.R. 2377(a), 27 N.J.R. 3216(a).

Amended citations in (a)3.

### 19:30-2.3 Conditions affecting the disqualification/debarment of a person(s)

(a) The following conditions shall apply concerning disqualification/debarment:

1. The existence of any of the causes set forth in N.J.A.C. 19:30-2.2(a) shall not necessarily require that a person be disqualified/debarred. In each instance, the decision to disqualify/debar shall be made within the discretion of the Authority unless otherwise required by law, and shall be rendered in the best interests of the Authority.

2. All mitigating factors shall be considered in determining the seriousness of the offense or inadequacy of performance, and in deciding whether disqualification/debarment is warranted.

3. The existence of a cause set forth in N.J.A.C. 19:30-2.2(a)1 through 8 shall be established upon the rendering of a final judgment or conviction including a guilty plea or a 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 disqualification/debarment shall be removed upon the request of the disqualified/debarred

person unless other cause for disqualification/debarment exists.

4. The existence of a cause set forth in N.J.A.C. 19:30-2.2(a)9 and 11 shall be established by evidence which the Authority determines to be clear and convincing in nature.

5. Debarment for the cause set forth in N.J.A.C. 19:30-2.2(a)10 shall be proper, provided that one of the causes set forth in N.J.A.C. 19:30-2.2(a)1 through 8 was the basis for debarment by the original debarring agency. 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.

Amended by R.1990 d.411, effective August 20, 1990.

See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Disqualification provisions added. Section recodified from 5.3.

### 19:30-2.4 Procedures; period of disqualification/debarment

(a) When the Authority seeks to disqualify/debar a person or his affiliates, the person or persons shall be furnished with a written notice stating that:

1. Disqualification/debarment is being considered;

2. The reasons for the proposed disqualification/debarment; and

3. An opportunity for a hearing will be afforded to such person or persons if the hearing is requested in writing and the request is received by the Authority within seven days from the date of personal delivery or the date of receipt of the mailing of such disqualification/debarment notice.

(b) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act (N.J.S.A. 54:14B-1 et seq.). Where any Federal or State department, agency or instrumentality has already imposed debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing, provided the Authority furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in his behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

(c) Disqualification/debarment shall be a reasonable, definitely stated period of time which as a general rule shall not exceed five years. Disqualification/debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is afforded an opportunity to present information in his behalf to explain why the additional period of disqualification/debarment should not be imposed.

(d) Except as otherwise provided by law, a disqualification/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 or causes for which the disqualification/debarment was imposed.

(e) A disqualification/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 giving due regard to all relevant facts and circumstances.

(f) The offense or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.

Amended by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Disqualification and hearing request provisions added; debarment may extend to affiliates. Section recodified from 5.4.

#### 19:30-2.5 Notice to Attorney General and Treasurer

Insofar as practicable, prior notice of any proposed debarment shall be given to the Attorney General and the State Treasurer. The Authority shall supply to the State Treasurer a list of all persons having been debarred in accordance with the procedures prescribed herein.

Recodified by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Section recodified from 5.5.

#### 19:30-2.6 Authority discretion

Nothing contained in this subchapter is intended to limit the discretion of the Authority or the members in determining eligibility for financial assistance or eligibility of tenants, or in refraining from contracting with any person. The purpose of this subchapter is to provide notice of certain offenses or failures which may result in disqualification for assistance or debarment. Project applicants, tenants, and contractors must meet any other applicable standards and policies.

Amended by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Authority includes staff members; eligibility for tenancy included. Section recodified from 5.6.

#### 19:30-2.7 Executive Director to implement regulation

The Executive Director is authorized to take all necessary action to implement and administer these provisions of this subchapter.

Recodified by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Recodified from 5.7.

### SUBCHAPTER 3. AFFIRMATIVE ACTION IN AUTHORITY-FINANCED CONSTRUCTION PROJECTS

#### 19:30-3.1 Definitions

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

“Construction contract” means any contract, subcontract, or agreement, whether written or oral, for construction, reconstruction, demolition, alteration, repair work, maintenance work, or construction related to installation of equipment, undertaken in connection with a project receiving Authority assistance and paid for in whole or in part with funds received through Authority assistance.

“Contractor” means any party who enters into a construction contract with the project owner/applicant, or any party to whom funds will be disbursed for payment of construction work, including any subcontractor of the Contractor.

“Minority worker” means any worker as defined by the New Jersey Department of the Treasury rule set forth in N.J.A.C. 17:27-2.1.

“Project owner/applicant” means the entity which or individual who has applied for, or is the recipient of, Authority financial assistance.

Amended by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

Definition for construction contract amended; minority worker added. Section recodified from 6.1.

#### 19:30-3.2 Application of affirmative action regulations

(a) Every contractor involved in a construction contract is required to undertake a program designed to employ minority workers and female workers in accordance with the hiring goals to be established by the Affirmative Action Office, New Jersey Department of the Treasury (see N.J.A.C. 17:27-7.3).

(b) The project owner/applicant shall be responsible for the performance of its contractors under this subchapter.

Amended by R.1990 d.411, effective August 20, 1990.  
See: 22 N.J.R. 1537(a), 22 N.J.R. 2532(a).

References to female workers and the requirements of N.J.A.C. 17:27-7.3 added. Section recodified from 6.2.