

Jon S. Corzine  
Governor

Kris Kolluri, Esq.  
Board Chairman

George D. Warrington  
Executive Director

**N TRANSIT**  
One Penn Plaza East  
Newark, New Jersey 07105-2246  
973-491-7000



May 11, 2006

Dear Governor Corzine:

Pursuant to Chapter 150, Laws of 1979, I herein transmit the minutes of actions taken at the open session of the regularly scheduled meetings of the New Jersey Transit Corporation, NJ Transit Rail Operations, Inc., NJ Transit Bus Operations, Inc., and NJ Transit Mercer, Inc. Board of Directors held on Tuesday, May 9, 2006.

Sincerely,

Gwen A. Watson  
Board Secretary

Enclosures

Honorable Jon Corzine  
Governor, State of New Jersey  
State House  
Trenton, NJ 08625

(NJT BOARD –05/09/2006)

Minutes of the actions taken at the Open Session of the re-scheduled Board of Directors' meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. held at NJ TRANSIT Headquarters, One Penn Plaza East, Newark, New Jersey on Tuesday, May 9, 2006.

**Present:**

Kris Kolluri, Esq., Chairman  
Myron P. Shevell  
Patrick W. Parkinson  
Kenneth E. Pringle  
A. Matthew Boxer, Governor's Representative  
Michael Lihvarcik, Treasurer's Representative

George D. Warrington, Executive Director  
Lynn Bowersox, Assistant Executive Director, Corporate Commun. & External Affairs  
James Gigantino, Acting Vice President & General Manager, Bus Operations  
William Duggan, Vice President & General Manager, Rail Operations  
Kenneth Worton, Deputy Attorney General  
Vincent Soleo, Assistant Executive Director, Procurement & Support Services  
James Redeker, Assistant Executive Director, Policy, Technology & Customer Services  
Richard Sarles, Assistant Executive Director, Capital Planning and Programs  
H. Charles Wedel, Chief Financial Officer & Treasurer  
Alma Scott-Buczak, Assistant Executive Director, Human Resources  
Gwen A. Watson, Board Secretary  
Robert Guarnieri, Auditor General

Chairman Kris Kolluri convened the Open Session at 9:25 am in accordance with the Open Public Meetings Act and asked for a motion to enter Executive Session to discuss litigation matters and contract negotiations. A motion was made by Myron P. Shevell, seconded by Patrick Parkinson and unanimously adopted.

Chairman Kris Kolluri reconvened the Open Session at 9:40 am and asked for a motion to adopt the minutes of the April 12, 2006 meeting. A motion was made by Patrick W. Parkinson, seconded by Myron P. Shevell and unanimously adopted.

Executive Director George Warrington highlighted the following from his monthly business report.

Executive Director Warrington said less than three months ago, NJ TRANSIT opened two new light rail stations in northern Hudson County, Tonnelle Avenue Station in North Bergen and Bergenline Avenue Station in Union City

Executive Director Warrington said ridership on the system has grown significantly since opening day, from 23,000 weekday trips in early February to 29,000 weekday trips in March, to more than 34,000 trips today.

He said while some of the increase is the result of increased frequency and capacity on the light rail system, a large part of this ridership is attributable to the new stations which have been enthusiastically embraced by the communities they serve.

Executive Director Warrington said that in two weeks, NJ TRANSIT will take another major step toward improving mobility and convenience in Hudson County and the region as it celebrates the opening of the new Port Imperial Ferry Terminal. The new terminal, located on the Hudson River directly across from the Port Imperial light rail station, will give NY Waterway customers an improved commuting experience, with more capacity, larger waiting area and vending options. He said work is currently underway on the pedestrian bridge that will connect the new terminal with the Port Imperial light rail station, directly across the street. The light rail system provides a quick and easy connection to the terminal, and NJ TRANSIT continues to work with NY Waterway to promote this very attractive commuting option.

Executive Director Warrington said customers using the 740-space park-and-ride facility at Tonnelle Avenue enjoy a four minute light rail trip to Port Imperial and NJ TRANSIT has extended free parking at Tonnelle until September 1, to encourage new customers to try the service. He said that last Saturday, NJ TRANSIT announced its commitment to extend service to 8<sup>th</sup> Street in Bayonne.

Executive Director Warrington thanked Chairman Kolluri and Governor Corzine for joining NJ TRANSIT for the announcement and for making this improvement possible through their leadership on the Transportation Trust Fund.

Executive Director Warrington said with respect to funding, last month he appeared with Chairman Kolluri at the Assembly and Senate budget committee hearings to brief the legislature on the Fiscal Year 2007 budget picture. He said the Governor's budget includes an increase of \$22 million in State support for NJ TRANSIT. Executive Director Warrington said NJ TRANSIT is doing more with less. He said since 2003, NJ TRANSIT has achieved nearly \$100 million in internal efficiencies and commercial revenue growth with a target of \$30 million in the coming fiscal year. He said these improvements include more than \$15 million in cuts by eliminating 35 vehicles, continuing to reduce materials management and parts inventories; cutting back on third-party professional services including marketing and advertising, and reducing administrative and overhead expenses throughout the company from travel, training, printing and postage, to reductions in banking fees.

Executive Director Warrington said NJ TRANSIT is also aggressively pursuing new commercial revenue streams that will total over \$15 million in revenue growth. He said every penny increase in diesel fuel price means a \$350,000 annual cost burden and fuel cost per gallon, 96 percent more than in 2004 and 45 percent higher than just last year.

He said that means the additional \$22 million earmarked by the Governor for NJ TRANSIT in Fiscal Year 2007 will almost entirely be consumed by fuel costs alone.

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In addition, electricity costs on NJ TRANSIT's rail lines using electric propulsion are rising at a rate of 14 percent per year. He said on the heels of Hurricane Katrina and in the wake of the London and Madrid bombings, insurance premium costs have increased almost 50 percent in the last three years.

Executive Director Warrington said higher prices at the pump are also likely to impact ridership and fare revenue forecasts next fiscal year, as they have this year. He said for the current fiscal year NJ TRANSIT projected ridership would generally be flat at zero to two percent due to anticipated diversion. However, the strong economy, new services and spiraling fuel prices have driven ridership well beyond projections. In fact, year-to-date NJ TRANSIT ridership is up seven percent, with March alone at eight percent and while there are two months to go in the April quarter, indications are that the upward trend will continue.

Executive Director Warrington said NJ TRANSIT will continue to refine cost assumptions over the next several months as well as ridership and revenue projections and will return to the Board this summer with an operating budget that more fully details the Fiscal Year 2007 budget, business plan and revenue/cost assumptions.

Executive Director Warrington said on the capital side, with the replenishment of the Transportation Trust Fund, NJ TRANSIT will ensure that the existing system is maintained in a state-of-good-repair, and that basic safety and reliability work remains top priority.

Executive Director Warrington said the Transportation Trust Fund program for Transit will increase by \$145 million annually over the next several years for a total of \$675 million, the largest state funded capital program in Transit's history. These additional funds will help ensure reliability, enable upgrades to rolling stock, including the complete overhaul of 76 longer distance cruiser buses and the replacement of every transit style bus in the fleet.

Executive Director Warrington said in addition, the budget will allow for the purchase of 42 new diesel locomotives, as well as replacing or overhauling 230 of the 1970's vintage (brown seat) Arrow III rail cars and 148 Comet IIIs and IVs.

He said NJ TRANSIT would also invest in 14 railroad stations and create over 4,000 new parking spaces for commuters.

Executive Director Warrington said the Governor's Capital Program allows NJ TRANSIT to advance critically needed capacity expansion projects such as THE Tunnel, Northern Branch service, Passaic-Bergen service, Middlesex-Ocean-Monmouth (MOM) and the Lackawanna Cutoff, among others.

Executive Director Warrington updated the Board on some of the initiatives put in place two weeks ago at the Governor's direction to help counter rising gas prices.

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Executive Director Warrington said NJ TRANSIT created a new section of the website – njtransit.com – specifically designed as a one-stop trip planning and schedule resource for new customers who want to try the system. He said the new section includes a “parking capacity tracker” to provide a daily update on where parking spaces are available on the system. He said the parking tracker reported that NJ TRANSIT had about 4,800 spaces available at places like the Vince Lombardi Park/Ride, Ramsey Route 17, Montclair State University Station, Florence and 36 Street stations on the River Line, and the 45<sup>th</sup> Street Station in Bayonne on HBLR.

Executive Director Warrington said the good news is that NJ TRANSIT recorded nearly 3,000 “hits” on the special website page geared to help first-time transit users, just days after the Governor’s announcement.

Executive Director Warrington said at the end of next week, NJ TRANSIT will send free round trip tickets to the 26,000 customers who receive their monthly tickets through the mail. He said NJ TRANSIT is encouraging these customers to give the tickets to friends and family members to try transit instead of driving to work, school, and other activities. Those tickets will hit mailboxes throughout the State beginning May 22, 2006.

Executive Director Warrington said NJ TRANSIT would continue to keep the Board updated as the summer season begins.

Suzanne Mack presented the Advisory Committee report to the Board. Ms. Mack thanked the Board of Directors and Executive Director Warrington for the new initiatives such as the parking tracker and distributing free tickets as a marketing tool. Ms. Mack said with the rise in gas prices, this is a good opportunity for NJ TRANSIT to capture ridership. Ms. Mack said the Advisory Committee is a prime advocate of the Transportation Trust Fund and she is thrilled by the commitment of \$22 million to NJ TRANSIT. She said she hopes this offsets the gas price increases so fares could be held down. Ms. Mack said she appreciates the bold initiatives the Governor and Chairman have taken with regard to the Transportation Trust Fund.

There were no public comments on agenda items.

Executive Director Warrington presented the following Action Items for approval:

0605-27: SOLE/SINGLE SOURCE VENDORS PURCHASE OF REPLACEMENT PARTS AND SERVICES (BUS, RAIL AND HEADQUARTERS)

Approval was requested for the routine annual authorization approval to contract with sole and single source vendors for components or parts needed to repair and maintain rolling stock equipment designed by the original equipment manufacturer. For the most part, these vendors have proprietary control over the manufacture and parts needed for repairs. Included are items such as bus and TVM ticket stock, ballast, track material, brake shoes, electrical parts and supplies and parts for the Arrow

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Passenger Car repairs. The cost for a 12-month period will not exceed \$22 million.

Patrick W. Parkinson moved the resolution, Kenneth E. Pringle seconded it and it was unanimously adopted.

Board Member Myron P. Shevell recused himself from voting on Item #0605-27, Sole/Single Source Vendors Purchase of Replacement Parts and Services (Bus, Rail and Headquarters)

Due to the recusal, a motion was made by Kenneth E. Pringle, seconded by Patrick W. Parkinson and adopted, to rescind the vote on Resolution #0605-27, Sole/Single Source Vendors Purchase of Replacement Parts and Services (Bus, Rail and Headquarters) and to vote on this Resolution again.

Kenneth E. Pringle moved the resolution Item #0605-27, Sole/Single Source Vendors Purchase of Replacement Parts and Services (Bus, Rail and Headquarters) and Patrick W. Parkinson seconded it and it was adopted. Myron P. Shevell recused himself from voting on this item.

0605-28: AMENDMENT TO THE REHABILITATION AND REPAIR TO ROSEVILLE CUT NORTH RETAINING WALL, MORRIS & ESSEX LINES, NEWARK, NJ

Last summer, the Board authorized a contract with Merco Inc. to rehabilitate and repair the North Retaining Wall of a section of the Morris & Essex Rail Lines known as the "Roseville Cut". This project will improve the structural integrity and reliability of the wall, which was constructed in the early 1900's, and reduce the number of periodic track outages necessary for inspections. This project was well underway when additional and previously unknown areas requiring repair and the filling of concrete voids were uncovered. Approval is requested to amend the existing contract at a cost not to exceed \$1.7 million to perform repairs to the new-found deterioration and fully repair the North Retaining Wall in the most cost effective manner, while the contractor is still on site.

Kenneth E. Pringle moved the resolution and Patrick W. Parkinson seconded it and it was unanimously adopted

Executive Director Warrington presented the following Consent Items for approval:

0605-29: AMENDMENT TO ATLANTIC CITY RAIL TERMINAL SHUTTLE SERVICE AGREEMENT

(NJT BOARD –05/09/2006)

Authorization to extend the existing agreement with the Atlantic City Jitney Association for the operation of Atlantic City Rail Terminal shuttle service for six months, from July 1, 2006 through December 31, 2006, at a total cost not to exceed \$788,250, plus five percent for contingencies.

0605-30: REGULATION: RE-ADOPTION WITH AMENDMENTS OF N.J.A.C. 16:72  
PROCUREMENT POLICIES AND PROCEDURES

Authorization to take all actions necessary to adopt with amendments the regulations, N.J.A.C. 16:72 et seq., Procurement Policies and Procedures, consistent with this Board item and exhibits, put the regulations in the appropriate format and take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procurement Policies and Procedures.

The Consent Calendar was moved in its entirety by Patrick W. Parkinson, seconded by Kenneth E. Pringle and unanimously adopted.

There were four public comments on non-agenda items.

William Wright, on behalf of the New Jersey Association of Railroad Passengers, gave the Board of Directors an inventory of vital rail rights-of-way in New Jersey that should be preserved for future rail service. Mr. Wright said there are millions of people living in New Jersey with millions more entering or doing business in the State.

Marguerite Anne Petrillo commented that in July 2005 an article appeared in the Star Ledger that NJ TRANSIT would enter into a contract for services to rate NJ TRANSIT employees. Vince Soleo, AED, Procurement and Support Services, said the contract for undercover services has not yet been awarded. Ms. Petrillo asked if this would be on a future board agenda and Mr. Soleo replied yes.

Gary Kazim commented on the issue of mini-high level platforms on the Morristown Line. Mr. Kazim said that the rail crew refused to board him from a high level platform. Mr. Kazim said he has had discussions with various staff and hopes that the crew will be trained and this issue resolved.

Rose Heck, on behalf of the New Jersey Association of Railroad Passengers (NJARP) thanked the Chairman and Executive Director for their continuing dialogue on the Northern Branch. Ms. Heck said she would continue to work on the DMU project and Bayonne extension. Ms. Heck said it is NJARP's intention to continue to speak publicly on light rail for Bergen County. She said light rail was promised to Bergen County years ago. Ms. Heck said ridership numbers are increasing and the capacity on light rail will be doubled. She said the dialogue will continue and she hopes NJ TRANSIT will be convinced that Bergen County needs light rail.

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Al Cafiero, on behalf of Senator Cardinale's office, commented that the legislators were told there will be a one seat ride into the new tunnel at New York Penn Station. Mr. Cafiero asked the cost of connecting the transfer station into North Bergen to the tunnel and Mr. Sarles said approximately \$900 million.

The Spring 2006 issue of Railgram was distributed by the Lackawanna Coalition.

Since there were no further comments or business, the Chairman called for adjournment and a motion to adjourn was made by Myron P. Shevell, seconded by Patrick W. Parkinson and unanimously adopted.

The meeting was adjourned at approximately 10:05 am.

**NEW JERSEY TRANSIT CORPORATION  
 NJ TRANSIT BUS OPERATIONS, INC.  
 NJ TRANSIT RAIL OPERATIONS, INC.  
 NJ TRANSIT MERCER, INC.  
 RE-SCHEDULED BOARD OF DIRECTORS MEETING**

**MAY 9, 2006**

**MINUTES**

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**ACTION ITEMS**

0605-27	SOLE/SINGLE SOURCE VENDORS PURCHASE OF REPLACEMENT PARTS AND SERVICES (BUS, RAIL, AND HEADQUARTERS)	37406
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Authorization to enter into sole or single source procurement-by-exception contracts for the purchase of materials and services from approved vendors set forth in Exhibit A (subject to adjustments), to support Bus, Rail, Light Rail and Headquarters operations at a cost not to exceed \$22,000,000. This request will cover a 12-month period. All items or services purchased on a sole/single source basis will be subject to price or cost analysis to ensure the reasonableness of the prices provided.

0605-28	AMENDMENT TO THE REHABILITATION AND REPAIR TO ROSEVILLE CUT NORTH RETAINING WALL, MORRIS & ESSEX LINES, NEWARK, NJ	37415
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Authorization to amend Contract No. 05-038 with Merco, Inc., of Lebanon, NJ, for additional rehabilitation and repair of the North Retaining Wall of the Roseville Cut, at a cost

not to exceed \$1,700,000 plus five percent for contingencies at a total cost not to exceed \$5,482,408, subject to the availability of funds.

### CONSENT CALENDAR

0605-29 AMENDMENT TO ATLANTIC CITY RAIL TERMINAL SHUTTLE SERVICE AGREEMENT 37419

Authorization to extend the existing agreement with the Atlantic City Jitney Association for the operation of Atlantic City Rail Terminal shuttle service for six months, from July 1, 2006 through December 31, 2006, at a total cost not to exceed \$788,250, plus five percent for contingencies.

0605-30 REGULATION: RE-ADOPTION WITH AMENDMENTS OF N.J.A.C. 16:72 PROCUREMENT POLICIES AND PROCEDURES 37421

Authorization to take all actions necessary to adopt with amendments the regulations, N.J.A.C. 16:72 et seq., Procurement Policies and Procedures, consistent with this Board item and exhibits, put the regulations in the appropriate format and take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procurement Policies and Procedures.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

**EXECUTIVE SESSION AUTHORIZATION**

**BE IT HEREBY RESOLVED** pursuant to N.J.S.A. 10:4-12 and N.J.S.A. 10:4-13 that the Board of Directors of the New Jersey Transit Corporation hold an executive session to discuss litigation matters and contract negotiations; and

**BE IT FURTHER RESOLVED** that it is expected that discussions undertaken at this executive session could be made public at the conclusion of these matters as appropriate.

## **APPROVAL OF MINUTES**

**WHEREAS**, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors be approved by the Board; and

**WHEREAS**, pursuant to Section 4(f) of the New Jersey Public Transportation Act of 1979, the minutes of actions taken at the April 12, 2006 Board meeting of the New Jersey Transit Corporation, NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Rail Operations, Inc. and NJ TRANSIT Mercer, Inc. were forwarded to the Governor on April 14, 2006;

**NOW, THEREFORE, BE IT RESOLVED** that the minutes of actions taken at the April 12, 2006 New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc. and NJ TRANSIT Mercer, Inc. Board of Directors' meetings are hereby approved.

(NJT Board-5/9/06)

Jon S. Corzine  
Governor

Kris Kolluri, Esq.  
Board Chairman

George D. Warrington  
Executive Director

**NJ TRANSIT**  
180 Boyden Avenue  
Maplewood, NJ 07040-2494  
973-378-6300



**TO:** BOARD OF DIRECTORS  
**FROM:** GEORGE D. WARRINGTON  
**DATE:** MAY 9, 2006  
**SUBJECT:** EXECUTIVE DIRECTOR'S REPORT – MAY 2006

Less than three months ago, we opened two new light rail stations in northern Hudson County—Tonelle Avenue Station in North Bergen and Bergenline Avenue Station in Union City. Ridership on the system has grown significantly since opening day—from 23,000 weekday trips in early February to more than 34,000 trips today, with the majority of this ridership attributable to the new stations.

In two weeks we will take another major step toward improving mobility and convenience in Hudson County and the region as we celebrate the opening of the new Port Imperial Ferry Terminal. The new terminal will give NY Waterway customers an improved commuting experience, with more capacity, a larger waiting area and vending options. Work is currently underway on the pedestrian bridge that will connect the terminal with the Port Imperial light rail station. The light rail system provides a quick and easy connection to the terminal, and we continue to work with NY Waterway to promote this very attractive commuting option.

On the southern end of the line, on Saturday we announced our commitment to extend light rail service to 8<sup>th</sup> Street in Bayonne, an improvement made possible thanks to the leadership of both the Commissioner and Governor on the Transportation Trust Fund.

With respect to funding, last month I appeared with our chairman at Assembly and Senate budget committee hearings to brief the legislature on our FY07 budget picture. We will continue to refine cost assumptions over the next several months—as well as our ridership and revenue projects—and will return to the Board this summer with an operating budget that more fully details our FY07 budget, business plan and revenue/cost assumptions.

On the capital side, with the replenishment of the Transportation Trust Fund, we will ensure that the existing system is maintained in a state of good repair, and that basic safety and reliability work remains our top priority. The Transportation Trust Fund program for Transit will increase by \$145 million annually over the next several years for a total of \$675 million—the largest state funded capital program in Transit's history. These additional funds will help ensure reliability and enable us to upgrade rolling stock, including the complete overhaul of 76 longer distance cruiser buses and the replacement of every transit style bus in our fleet. In addition, the budget will allow for the purchase of 42 new diesel locomotives, as well as replacing or overhauling 230 of the 1970's vintage Arrow III rail cars and 148 Comet IIIs and IVs. We will also invest in 14 railroad stations and create more than 4,000 new parking spaces for commuters.

The Governor's transportation budget also allows us to move forward with critically needed capacity expansion projects such as THE Tunnel, Northern Branch service, Passaic-Bergen rail service, MOM and the Lackawanna Cutoff, among others.

Two weeks ago, we put in place a number of initiatives at the Governor's direction to help counter rising gas prices. To encourage use of our buses, trains and light rail lines and make using the system easier for new customers, we created a new section of our website specifically designed as a one-stop trip planning and schedule resource for new customers who want to try the system. The new section includes a "parking capacity tracker" to provide a daily update on where parking spaces are available on the system.

At the end of next week, we will send free round trip tickets to the 26,000 customers who receive their monthly tickets through the mail. We are encouraging these customers to give the tickets to friends or and family members to try transit instead of driving to work, school, and other activities. The free tickets will arrive in mailboxes throughout the state beginning May 22.

# **EXECUTIVE DIRECTOR'S MONTHLY REPORT MAY 2006**

- 1. HIGHLIGHTS**
- 2. CUSTOMER AND COMMUNITY INITIATIVES**
- 3. EMPLOYEE RECOGNITION**
- 4. DBE/MBE PROGRAM**
- 5. PERFORMANCE MEASURES**

# HIGHLIGHTS

### **Capacity enhancements on the way for New York Penn Station**

On April 12, the NJ TRANSIT Board of Directors authorized preliminary design for the creation of a new concourse to connect to the new Moynihan Train Station, a critical early action item of the Access to the Region's Core (ARC) project that will expand the capacity of the New York Penn Station complex and improve pedestrian flow throughout the facility.

The project is a key component of NJ TRANSIT's plans for Moynihan Station and expanded rail service, helping to provide NJ TRANSIT customers with a vital and effective commuter gateway into Manhattan, complementing both the existing Penn Station and the proposed 34<sup>th</sup> Street Station that is part of THE Tunnel project.

The new concourse will connect to the Moynihan Station and the Long Island Rail Road's 8<sup>th</sup> Avenue Concourse. The project also includes extending the platforms serving tracks one through four to accommodate longer trains and connect them with the new concourse. Taken together, these measures are expected to significantly improve customer circulation throughout the station.

The contract amendment with Transit Link Consultants, a Joint Venture of Parsons Brinckerhoff of Newark and Systra Consulting, Inc. of Bloomfield, will ensure that the new concourse is well integrated with a series of New York Penn Station capacity enhancements initiated by NJ TRANSIT to augment the Moynihan Station and Trans-Hudson Express (THE) Tunnel projects.

In November, NJ TRANSIT executed a Memorandum of Understanding with the Moynihan Station Development Corporation (MSDC) that will enable NJ TRANSIT to become the anchor rail tenant at the new Moynihan Station on 8<sup>th</sup> Avenue in New York City. Moynihan Station will provide an alternate means for customers to access the boarding platforms of Penn Station and as a result, improve the effective passenger moving capacity of the station complex. With the additional customer capacity, the platforms serving tracks one through four will be lengthened on both ends to accommodate longer trains.

ARC features the new Trans-Hudson Express (THE) Tunnel as its centerpiece and together with added track, station and train storage facilities will double trans-Hudson rail capacity to meet peak-period demand for service between New Jersey and Manhattan—projected to surge from 43,000 passengers today to 86,000 passengers by 2025.

The new concourse, platform extensions and related New York Penn Station capacity enhancements are expected to be completed by 2010.

### **Mt. Arlington Station approved by NJ TRANSIT Board of Directors**

Motorists looking for an escape from the congestion of Route 80 will soon find relief. On April 12, the NJ TRANSIT Board of Directors approved construction of the Mount Arlington Station, which is expected to reduce congestion on the busy I-80 corridor.

The project also will reconfigure and expand by 57 spaces the existing parking lot, which is today a carpool and bus park & ride, bringing the total capacity to 285 spaces. The lot, which was built in 2003 by the New Jersey Department of Transportation (NJDOT), is located at the Howard Boulevard Interchange of Route 80 in Mount Arlington.

The station will be served by trains on the Montclair-Boonton Line and the Morristown Line, enabling customers to travel to Hoboken Terminal, where transfers are available to bus, PATH and trans-Hudson ferries. Customers traveling to midtown Manhattan will be able to transfer to MidTOWN DIRECT service at Dover or Montclair State University stations.

The new facility, which will be fully accessible for customers with disabilities, will feature heated waiting shelters on the inbound platform, two high-level platforms, a pedestrian underpass and public address and passenger communications systems.

Terminal Construction Corp. of Wood-Ridge will construct the new station and associated improvements under a \$12.1 million contract. Construction is scheduled to begin this summer; the project is expected to be complete by the end of 2007.

### **Rehabilitation planned for 94-year-old drawbridge on North Jersey Coast Line**

As part of an ongoing effort to maintain New Jersey's passenger rail infrastructure in a state-of-good-repair, on April 12 the NJ TRANSIT Board of Directors approved a \$4.7 million construction contract to restore the Morgan Drawbridge on the North Jersey Coast Line. Located over the Cheesequake Creek in Sayreville, the moveable bridge was constructed in 1912 and carries a total of 74 passenger trains each weekday.

Benefiting NJ TRANSIT customers and marine traffic alike, the repair work will extend the useful life of the bridge and ensure reliable and safe operation for years to come. The contract award to Kiska Construction, Inc. of Long Island City, NY, includes rehabilitation of the mechanism for opening and closing the bridge, as well as other structural and mechanical improvements.

NJ TRANSIT will make every effort to minimize customer impact by conducting the work during off-peak and weekend hours whenever possible. Construction work is expected to begin this spring with anticipated completion in summer 2007.

### **NJ TRANSIT responds to current high price of gasoline**

NJ TRANSIT is taking several steps to encourage use of its buses, trains and light rail lines and make using the system easier for new customers during the current period of high gasoline prices.

NJ TRANSIT first began tracking ridership gains attributable to the cost of gasoline in summer 2005. At that time, the Corporation began taking steps to meet and anticipate ridership demand, including purchasing and leasing new equipment and adding seats to bus, rail and light rail services.

NJ TRANSIT took additional steps recently to help new and current customers coping with the high cost of gasoline, including adding or adjusting capacity to match ridership demand. Since January, 160 bus trips have been added on 46 routes across the system, and over the next several months, 101 more trips will be added on 31 routes.

On the rail system, NJ TRANSIT has reallocated passenger coaches to provide seats where they are needed most. New multi-level rail cars, which offer 15-20 percent more seats than the current fleet, will be placed into service on the State's busiest routes starting this fall.

In addition, NJ TRANSIT has taken the following steps to help new customers:

1. **Encourage use of public transportation by offering a free round trip to the 26,000 NJ TRANSIT customers who receive their monthly tickets by mail.** The round trip will arrive with June monthly tickets and enable friends and family members to discover

the ease and convenience of using NJ TRANSIT.

2. **Redeploy personnel to provide additional customer service operators** at NJ TRANSIT's toll-free call center (800-772-2222).
3. **Create a new section of [www.njtransit.com](http://www.njtransit.com)** to serve as a one-stop trip planning and schedule resource for new customers who want to try the system.
4. **Add a "Parking Capacity Tracker"** that will be updated daily to show customers where parking spaces are available on the NJ TRANSIT system.

# **CUSTOMER AND COMMUNITY INITIATIVES**

**Belmar Mayor kicks off 'spring cleaning' for Earth Day**

In celebration of Earth Day, Belmar Mayor and NJ TRANSIT Board member Kenneth E. Pringle today announced on April 20 the "adoption" of Belmar Station under NJ TRANSIT's Adopt-A-Station program, which also signaled the startup of the Corporation's "Spring Cleaning Station Sweep" program.

Sovereign Bank's Belmar Branch agreed to adopt the train station for two years and will pick up litter around the facility at least four times a year. Representatives from the bank also will plant and maintain flowers on the property.

In addition, NJ TRANSIT has partnered with the New Jersey Clean Communities Council, which will spruce up rail stations in New Brunswick, Elizabeth and Atlantic City. The Trenton-based nonprofit organization will deploy members to sweep and pick up litter.

During the program Mayor Pringle, volunteers from the New Jersey Clean Communities Council and Sovereign Bank planted flowers, swept around the station, picked up litter and power-washed the sidewalk.

NJ TRANSIT introduced its "Adopt-A-Station" program in 1998, modeling it after the New Jersey Department of Transportation's successful "Adopt-A-Highway" program. Belmar Station is the 19<sup>th</sup> station to be adopted.

In addition to the Adopt-A-Station program, NJ TRANSIT works diligently to protect the environment throughout the year:

**Particulate matter reduced dramatically**

Since 1991, NJ TRANSIT has employed a comprehensive strategy to dramatically reduce emissions from its bus fleet by:

- Purchasing new equipment (MCI Cruisers, Neoplan and Nova B buses)
- Rebuilding engines in older buses
- Using ultra-low-sulfur diesel fuel
- Adding alternative-energy buses (compressed natural gas and hybrids)

NJ TRANSIT is on course to reduce particulate-matter emissions by more than 91 percent over 1994 levels, and to reduce oxides of nitrogen emissions (two major pollutants from exhaust) by 53 percent, by the end of 2006.

**Heavy user of 'green power'**

Recently, NJ TRANSIT's use of renewable energy was recognized when the United States Environmental Protection Agency named the New Jersey Consolidated Energy Savings Program (NJCESP) the nation's 14<sup>th</sup> largest purchaser of "green power" (electricity from solar, wind and geothermal sources). NJ TRANSIT uses 30 percent of the green power purchased by the NJCESP. Since joining the program in 2000, the net effect of NJ TRANSIT participation has resulted in clean air benefits equivalent to the removal of almost 10,000 cars from the road.

NJ TRANSIT has also reduced its electrical consumption through a series of lighting and building automation control projects, reducing air pollution. In addition to the dollars saved, the net effect of this program is equivalent to the removal of an additional 5,000 cars from the road each year.

**Hybrid vehicles replace older vehicles**

NJ TRANSIT recently replaced some of its older fleet vehicles with 21 hybrid vehicles, which are powered through a combination of gasoline and electricity. The new hybrids are environmentally friendly and cost less to fuel.

**Recycling paper, industrial waste serves environment**

NJ TRANSIT uses recycled paper for its timetables and copy machines to benefit the environment. Each year, the Corporation's recycling program saves 1.2 million gallons of water, nearly 3,000 trees and 1.6 billion BTUs of energy, while reducing atmospheric emissions, waterborne waste and solid waste.

In general, the Corporation recycles about 20 tons of paper per month at its larger office facilities.

In addition, NJ TRANSIT has implemented recycling programs for industrial waste. Last year, for example, the Corporation recycled approximately 212,000 gallons of used oil, 38,000 gallons of used anti-freeze, 13 tons of mercury-containing fluorescent and metal halide light bulbs, 153,000 pounds of used oil and fuel filters, and 25 tons of batteries.

**OzonePass program gives environment, customers some relief**

The Corporation's OzonePass program gives New Jersey-based employers the opportunity to offer their employees a \$2.50-round-trip commute within New Jersey on any NJ TRANSIT bus, train or light rail line on designated "Ozone Alert" days. NJ TRANSIT was the first commuter system to introduce the OzonePass concept in 1999. Since the program's inception, NJ TRANSIT has sold more than 50,000 OzonePasses to New Jersey employers.

**Smoke free policy takes effect**

On Saturday, April 15, New Jersey's Smoke Free Air Act took effect. In compliance with the Act, NJ TRANSIT has modified its policies and procedures, as follows:

Smoking is prohibited in enclosed indoor places owned or controlled by NJ TRANSIT in New Jersey. This includes customer waiting rooms, trains, buses, light rail vehicles, and structurally enclosed parking garages and facilities. Smoking is also prohibited on train, bus and light rail platforms at stations and terminals owned or controlled by NJ TRANSIT in New Jersey.

For employees, this means that many areas previously used for smoking have become off-limits with the new policy. Smoking is no longer permitted on the premises of NJ TRANSIT's headquarters facilities at Penn Plaza and the Maplewood GOB, with the new prohibition including courtyards, loading docks and any other indoor areas or partially enclosed areas of the buildings. Also, to send a consistent message to customers, employees are not permitted to smoke on the sidewalks in front of the buildings.

In addition to "no smoking" rules in all NJ TRANSIT indoor workplaces, smoking is prohibited in all enclosed parking garages that NJ TRANSIT controls—including those used for employee and company vehicle parking.

For both employees and customers, smoking is prohibited on rail and light rail platforms, whether open or enclosed; at major bus terminal boarding areas controlled by NJ TRANSIT, whether open or enclosed; and of course, on board trains, buses and light rail vehicles.

While the law only affects stations and terminals in New Jersey, NJ TRANSIT employee facilities in all locations are covered by the policy prohibiting smoking in NJ TRANSIT workplaces.

**NJ TRANSIT operates early getaway bus service for Passover**

NJ TRANSIT offered early getaway bus service on Wednesday, April 12 from the Port Authority Bus Terminal in New York for the benefit of customers observing Passover. The extra service included 16 afternoon trips on various bus routes.

**NJ TRANSIT hosts open house on Hamilton Station development**

NJ TRANSIT hosted an open house on its plans for a transit-friendly development at the Hamilton Train Station in Hamilton Township on Thursday, April 27, 2006. The meeting was held at the Hamilton Township's Public Library.

NJ TRANSIT staff, along with representatives from the development and architecture teams, were on hand to provide information on the project, outline the benefits of transit-friendly planning and speak one-on-one with attendees to obtain feedback.

The proposed development for NJ TRANSIT's 20-acre property at the train station includes retail, residential, office, hotel and parking components designed to create a vibrant downtown community.

# **EMPLOYEE RECOGNITION**

### **Creative Services staff members earn honors**

Congratulations to Beata Lazor and Marci Brezina of our Creative Services department for their award-winning submissions to the Communicator Awards 2006 Print Media Competition—an international contest that honors excellence in the field of communications.

Beata received an Award of Excellence, given to those entries whose ability to communicate puts them among the best in the field, for her work on materials for THE Tunnel.

Marci won awards of distinction for both the Ethics Brochure and the Newark City Subway logo. The Award of Distinction is presented for projects that exceed industry standards in quality and excellence.

### **NJ TRANSIT hosts 'Take Your Children to Work' program**

On April 27, NJ TRANSIT participated in the national "Take Your Children to Work" program, providing children with the opportunity to learn about the type of work NJ TRANSIT employees do and the valuable service NJ TRANSIT provides to New Jersey residents. A total of 87 children between the ages of 9 and 11 participated, enjoying a morning of planned activities, lunch with their parent or guardian and "job shadowing" during the afternoon.

The program included three separate satellite locations—Newark Penn Plaza, Maplewood GOB and the Newton Avenue facility in Camden. At each location, the children introduced themselves during "ice breaker" exercises before heading off on site-specific tours. In Maplewood, participants boarded an articulated bus to Ferry Street Building 3, where they were treated to an NJ TRANSIT Police K-9 unit demonstration. From Newark, the group boarded a train to Secaucus Junction for a tour of the station, went on a "transportation hunt" and also enjoyed a demonstration from the NJTPD's K-9 unit. At the Camden location, the kids visited the bus simulator before going for a ride on River LINE.

Chris Buoncuore of Employee Relations coordinated the successful event with assistance from Leslie Owens, Wanda Barnett and Charlene Butler—also of Employee Relations—as well as Sheila Brown of the South Jersey Transit Information Center.

The following employees volunteered their time as chaperons for the event:

- Mary Ann Redmond
- Bill Forke

- Manley Koonts
- Valerie Thomas
- Steve Castrovinci
- Shirley McColligan
- Xiomara Fernandez
- Lorraine Colarusso
- Vanessa Mason-Lewis
- Sylvia Benavente
- Sheila Gunther
- Mary Levoyer
- Maria Colon
- Toni Finnegan
- Penny Jackson
- Kris Lemus
- Delleatha Carstarphen
- Elise Still
- Loretta Sweeney
- Christine Tribble

### **NJ TRANSIT employees bid farewell after outstanding careers**

Eleven NJ TRANSIT employees retired in April with careers ranging from 13 to 29 years of service:

1. Charles P. Lombard (Cedar Grove) Maplewood Financial Compliance Analyst – 29 years
2. Robert Philbrook, Jr. (Belford) Market Street Garage Building Maintenance – 29 years
3. Robert F. Kersellius (Old Bridge) Ferry Street Sr. Training Specialist – 27 years
4. Vicki L. Wydenowski (Paulsboro) Newton Avenue Foreman II – 26 years
5. Leo R. Fitzsimmons (Lawrence Harbor) Ferry Street DIN Crew Special Maintenance – 25 years
6. William B. Barnes (Irvington) Maplewood Sr. Employee Development & Training Specialist – 21 years
7. Gary L. Morgan (Mays Landing) Atlantic City Bus Operator – 21 years
8. Jerome Muckle (Passaic) Market Street Garage Bus Operator – 20 years

9. Richard A. Olsen (Green Village) Penn Plaza Director Rail Infrastructure Design – 18 years
10. Neville L. Parkinson (Little Ferry) Wayne Garage Bus Operator – 18 years
11. Gloria J. Mitchell (Jersey City) Greenville Garage Bus Operator – 13 years

# **DBE/MBE PROGRAM**

**NJ TRANSIT – Office of Business Diversity DBE/SBE Participation****Federally Funded Contracts**

\$155,943,347 in federal funds was awarded during October thru April of FY 06\*. Disadvantaged Business Enterprises (DBEs) were awarded \$36,322,190 or 23.3 percent, which includes both race conscious and race neutral awards.

**State Funded Contracts**

\$225,675,004 in state-funded contract dollars was awarded during July thru April FY 06. \*\* Of that total, Small Business Enterprises (SBEs) received \$30,588,033 or 13.6 percent. Category 1 SBEs received \$1,577,612 or 0.7 percent. Category 2 SBEs received \$6,062,064 or 2.7 percent. Category 3 SBEs received \$13,410,116 or 5.9 percent. Category 4 SBEs received \$4,210,734 or 1.9 percent. Category 5 SBEs received \$5,327,507 or 2.4 percent. \*\*\*

**Federal & State Contracts Total**

\$381,618,351 in federal and state contract dollars was awarded by NJ TRANSIT during this reporting period. Of that total, \$66,910,223 or 17.5 percent of federal and state contract dollars was won by DBEs and SBEs.

**Hudson-Bergen Light Rail Transit System Project**

Of \$1,433,024,411 in contract dollars awarded for the Hudson-Bergen Light Rail Transit System project\*\*\*\*, \$180,729,496 or 12.6 percent has been received by DBEs. Of the \$180,729,496, 6 percent or \$86,823,647 has been won by Women Business Enterprises (WBEs) who are classified as DBEs.

\*Fiscal year beginning October 1, 2005

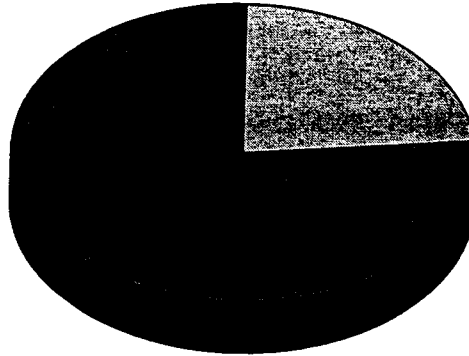
\*\*Fiscal year beginning July 1, 2005

\*\*\*Cat 1-Less than \$500,000 gross revenues, Cat 2-Less than \$5 million, Cat 3-Less than \$12 million, Cat 4 (construction)-Less than \$1 million, Cat 5 (construction)-Less than \$17,420,000

\*\*\*\*This YTD figure reflects federal dollars expended on an annual basis; including change orders, for the period from December, 1996 through April 2005.

### DBE PARTICIPATION FEDERAL CONTRACTS FEDERAL FYTD (THRU APRIL 2006)

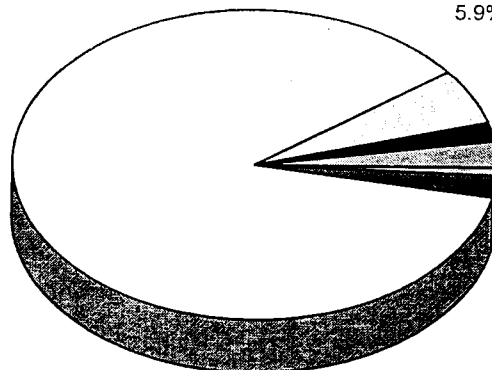
NON-DBE  
FEDERAL  
\$119,621,157  
76.7%



DBE RACE  
NEUTRAL &  
RACE  
CONSCIOUS  
\$36,322,190  
23.3%

### SBE PARTICIPATION STATE CONTRACTS STATE FYTD (THRU APRIL 2006)

NON-SBE STATE  
\$195,086,971  
86.4%



SBE-3  
\$13,410,116  
5.9%

SBE-4  
\$4,210,734  
1.9%

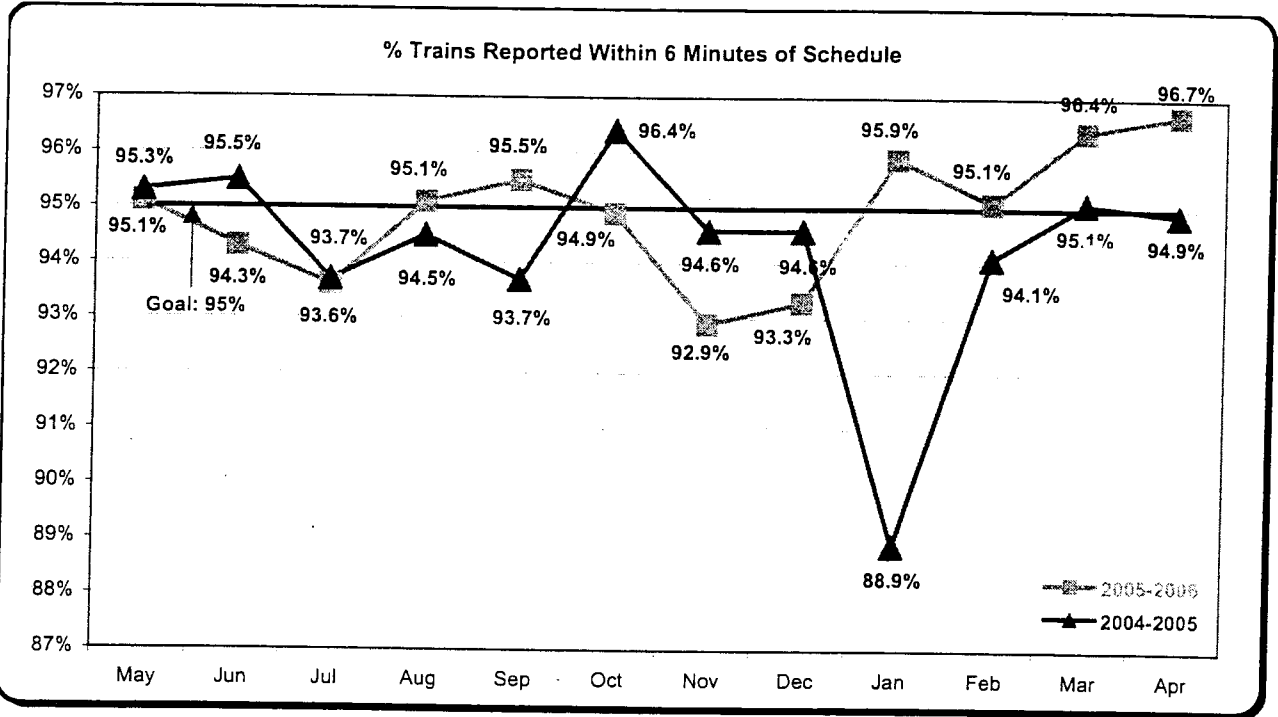
SBE-2  
\$6,062,064  
2.7%

SBE-1  
\$1,577,612  
0.7%

SBE-5  
\$5,327,507  
2.4%

# **PERFORMANCE MEASURES**

# NJ TRANSIT ON-TIME PERFORMANCE RAIL MAY 2004 - APRIL 2006



	2005	2006	# Change
April Comparison	94.9%	96.7%	1.8%

	2004-2005	2005-2006	# Change
12-Month Average May - April	94.3%	94.9%	0.6%

**Analysis:**

Systemwide, Rail On-Time Performance for April 2006 was 96.7%, well above the goal of 95.0%. Of the 18,282 trains that were scheduled to operate, 17,684 were on time, while 598 trains (or 3.3%) were delayed. Causes of delay included:

An incident involving a trespasser on the NEC on April 5th;

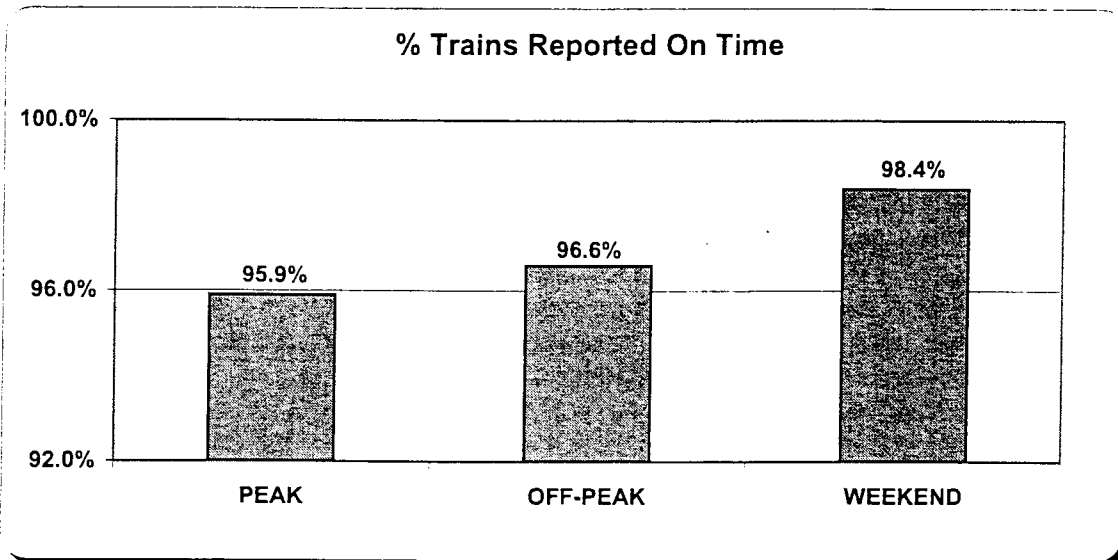
A locomotive failure on April 18th; and

A brush fire in Millburn that affected all three tracks on April 20th.

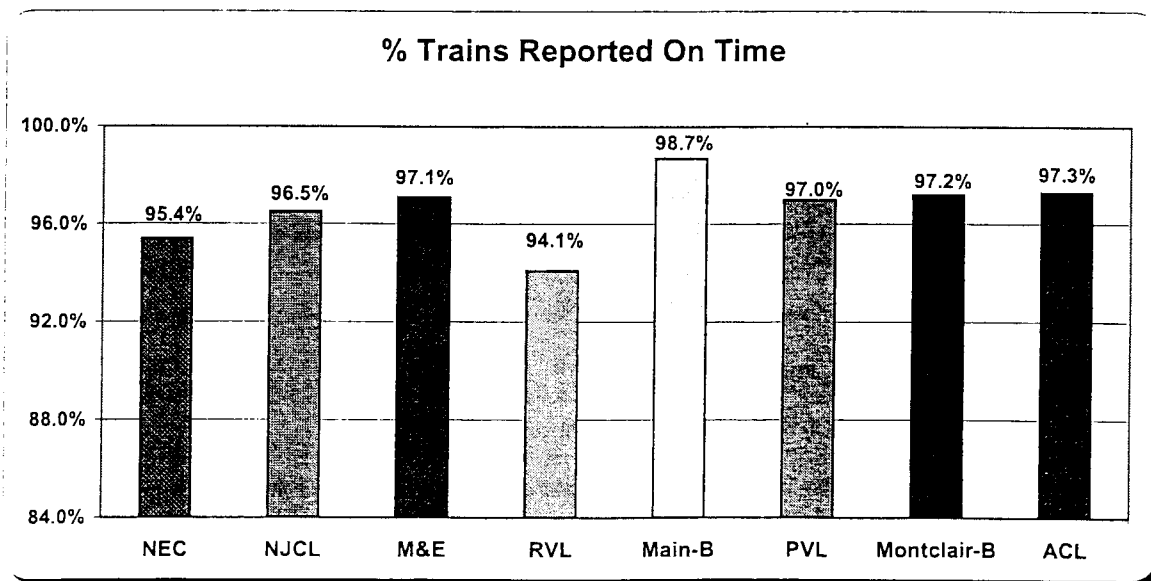
The 12-month average for Rail On-Time Performance systemwide for May 2005 - April 2006 was 94.9%, above the average for the previous 12-month period.

# ON-TIME PERFORMANCE RAIL

## SUMMARY BY TIME PERIOD APRIL 2006

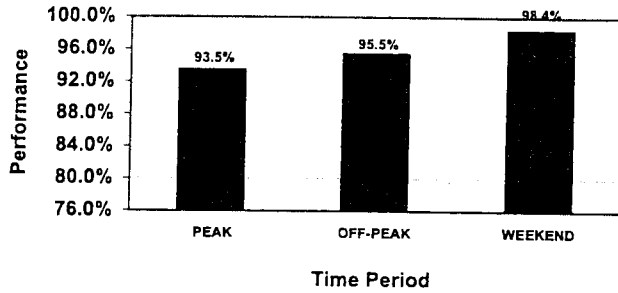


## SUMMARY BY LINE APRIL 2006

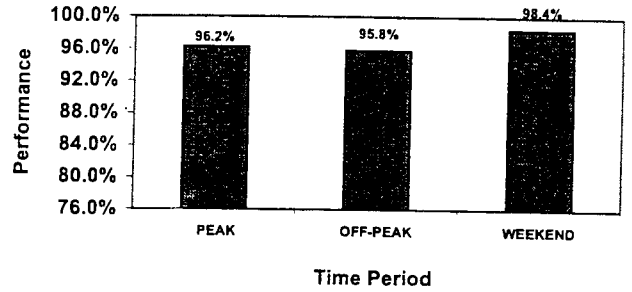


# ON-TIME PERFORMANCE BY RAIL LINE & TIME PERIOD APRIL 2006

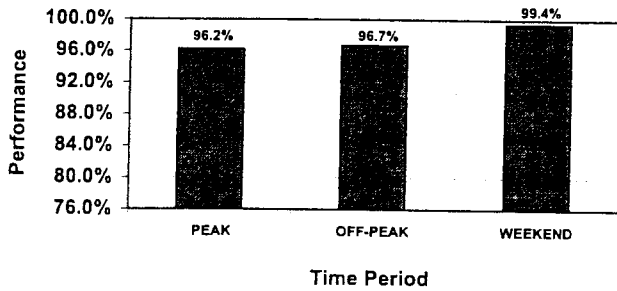
**NORTHEAST CORRIDOR**



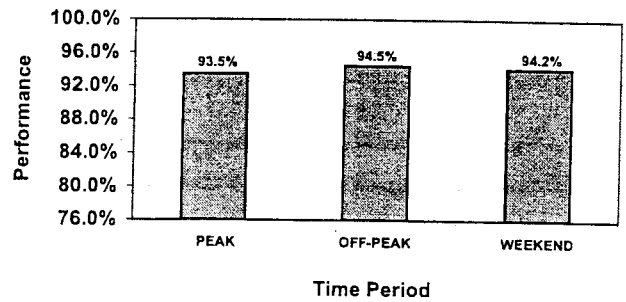
**NORTH JERSEY COAST LINE**



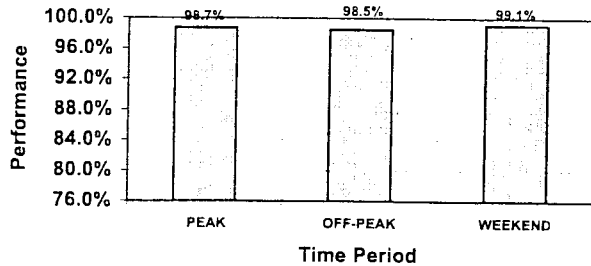
**MORRIS & ESSEX**



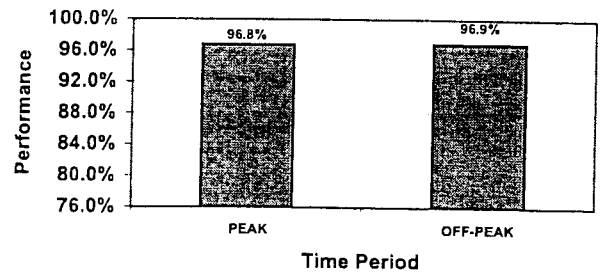
**RARITAN VALLEY LINE**



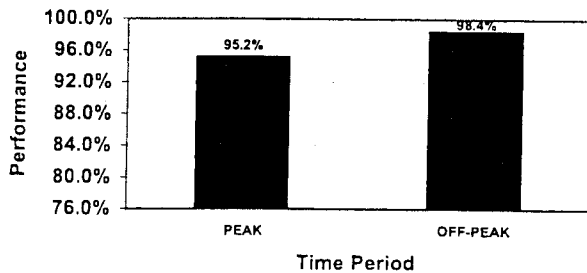
**MAIN-BERGEN**



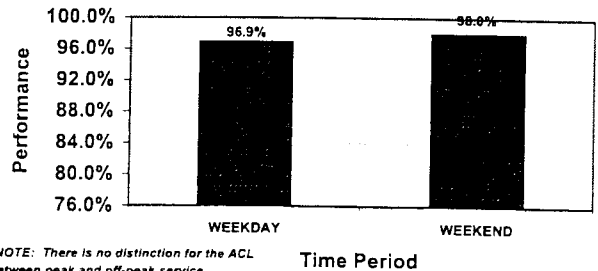
**PASCACK VALLEY**



**MONTCLAIR-BOONTON**

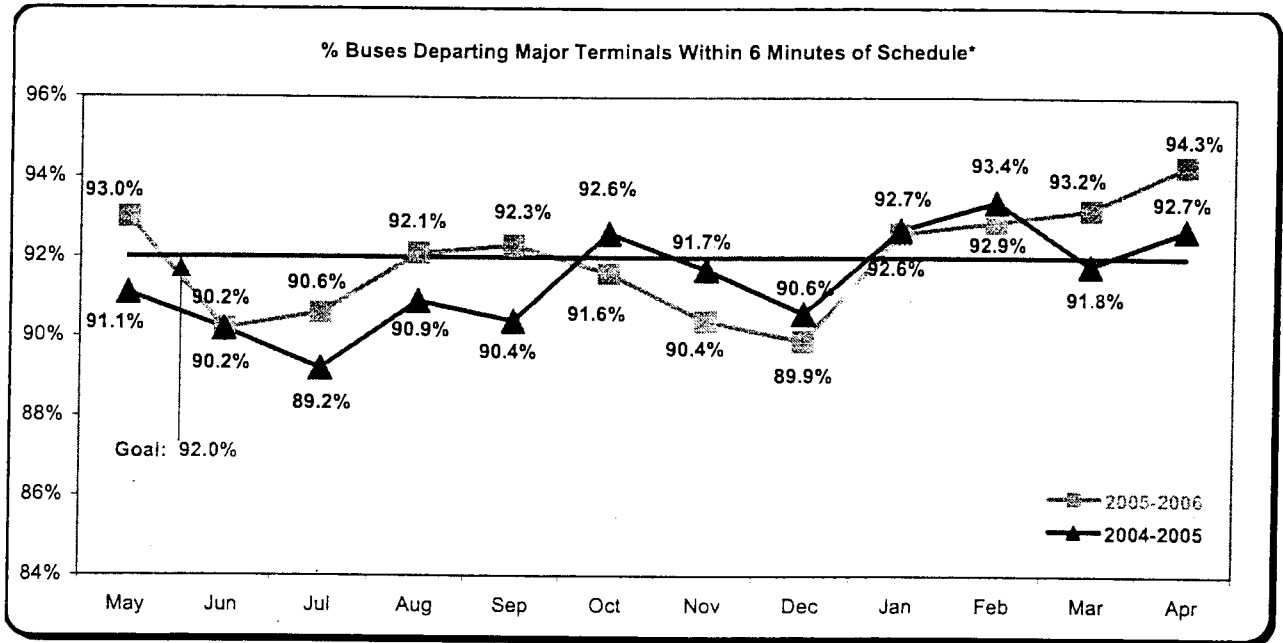


**ATLANTIC CITY\***



\*NOTE: There is no distinction for the ACL between peak and off-peak service.

# NJ TRANSIT ON-TIME PERFORMANCE BUS MAY 2004 - APRIL 2006



\*Note: Includes the Walter Rand Transportation Center, Atlantic City Bus Terminal, Port Authority Bus Terminal and Newark Penn Station

	2005	2006	# Change
April Comparison	92.7%	94.3%	1.6%

	2004-2005	2005-2006	# Change
12-Month Average May - April	91.4%	91.9%	0.5%

**Analysis:**

Bus On-Time Performance for April 2006 was 94.3%, well above the goal of 92.0%. Of the 29,530 monitored departures, 1,691 (or 5.7%) experienced delays. Key sources of delay included:

Road construction throughout the month on the Garden State Parkway and Atlantic City Expressway near the Atlantic City Bus Terminal;

Gridlock conditions on Route 495 Eastbound and a breakdown on the outbound ramp near the Port Authority Bus Terminal on April 14th;

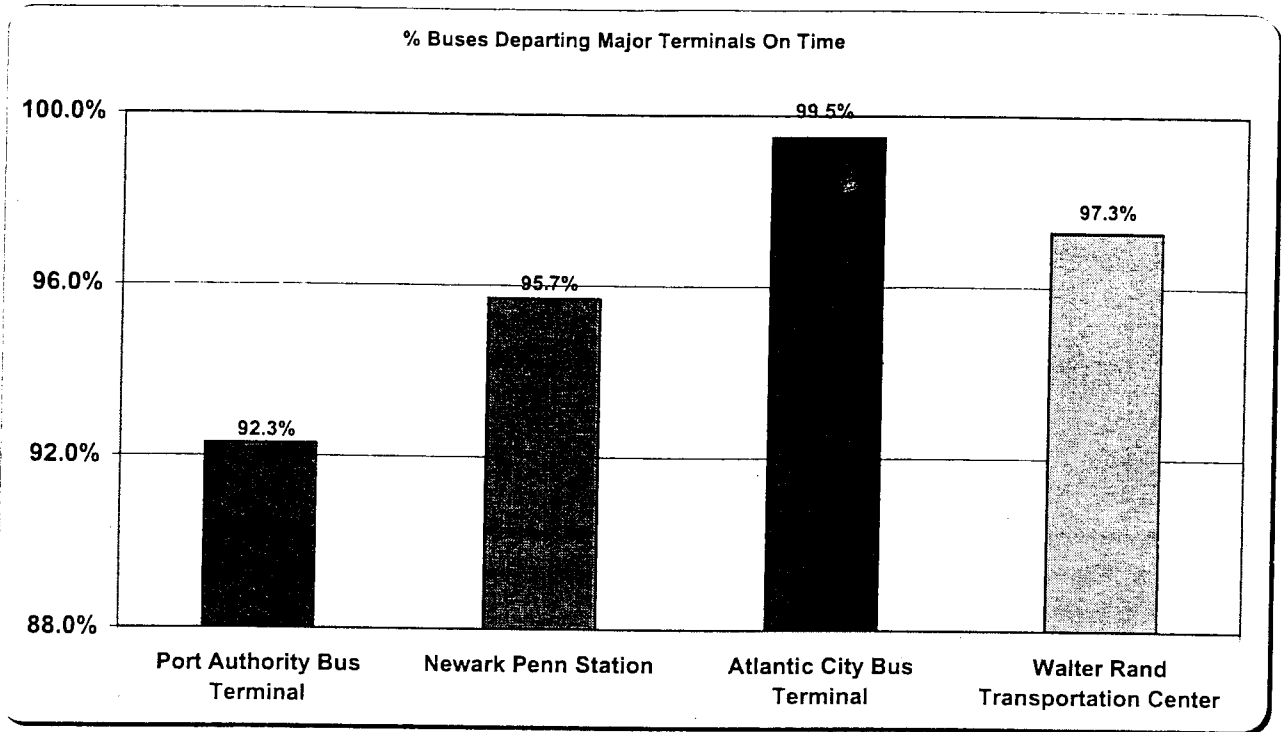
Heavy rains and flooding near the Walter Rand Transportation Center on April 24th; and

An overturned truck on Route 3 East near the Port Authority Bus Terminal on April 28th.

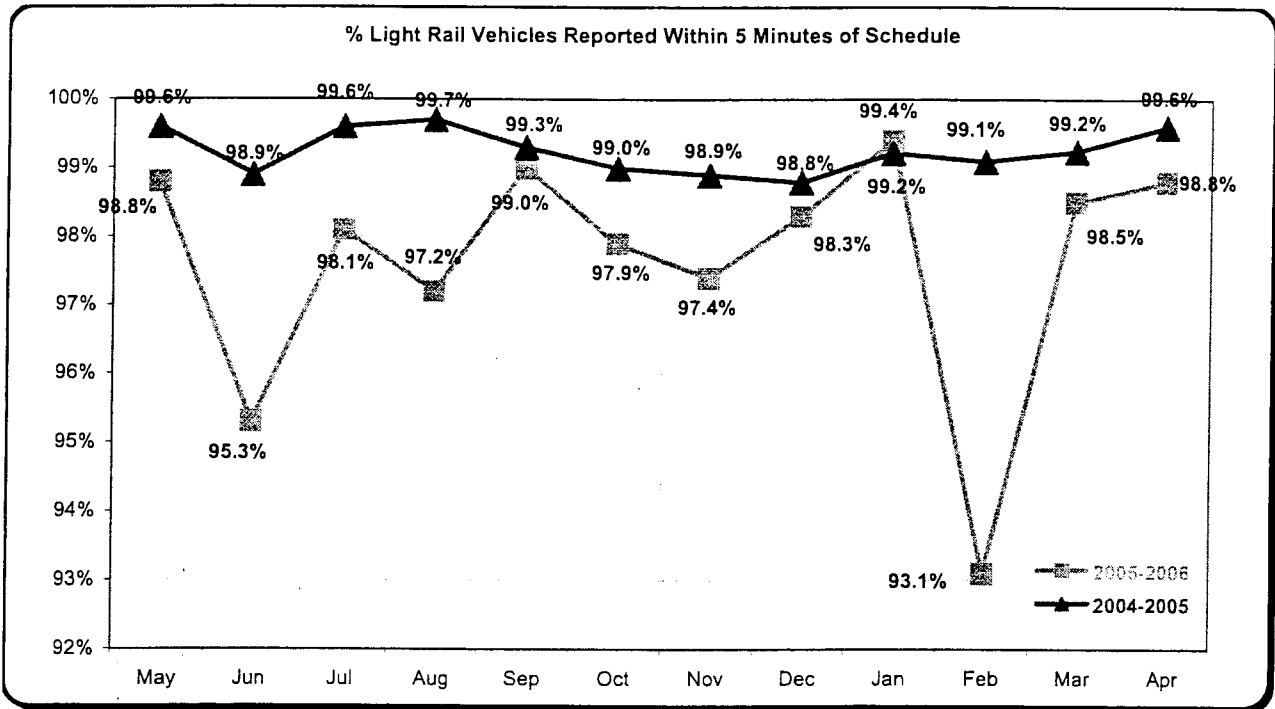
The 12-month average for Bus On-Time Performance for May 2005 - April 2006 was 91.9%, 0.5 percentage points above the average for the previous 12-month period.

# ON-TIME PERFORMANCE BUS

## SUMMARY BY TERMINAL April 2006



# NJ TRANSIT ON-TIME PERFORMANCE HUDSON-BERGEN LIGHT RAIL MAY 2004 - APRIL 2006



	2005	2006	# Change
April Comparison	99.6%	98.8%	-0.8%

	2004-2005	2005-2006	# Change
12-Month Average May - April	99.2%	97.7%	-1.5%

**Analysis:**

Hudson-Bergen Light Rail (HBLR) On-Time Performance for April 2006 was 98.8%. Of the 16,618 scheduled trips for the month, 208 (or 1.2%) were delayed. Causes of delay included:

A PSE&G power loss on April 5th;

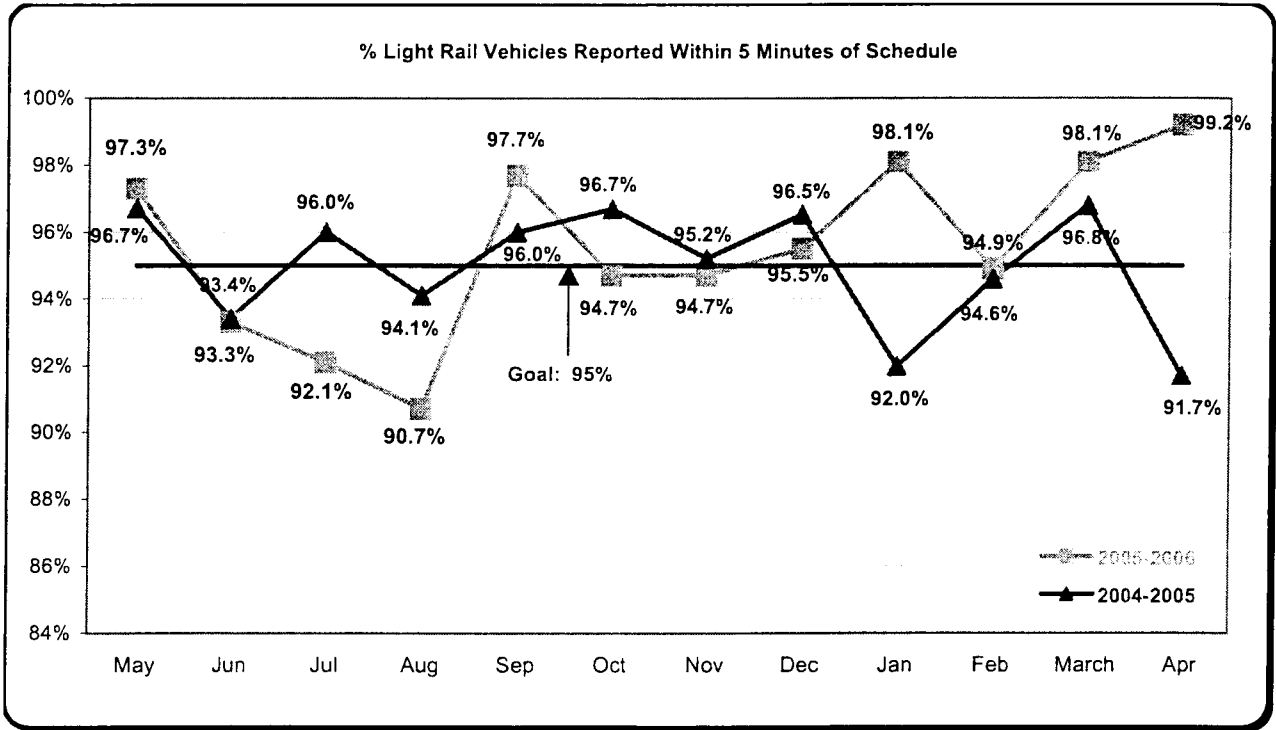
Equipment failures on April 7th and 12th;

NJT Police action on April 18th; and

A problem with overhead wiring on April 27th.

The 12-month average for HBLR On-Time Performance for May 2005 - April 2006 was 97.7%, 1.5 percentage points below the average of the previous 12-month period.

# NJ TRANSIT ON-TIME PERFORMANCE River LINE MAY 2004 - APRIL 2006



	2005	2006	# Change
April Comparison	91.7%	99.2%	7.5%

	2004-2005	2005-2006	# Change
12-Month Average May - April	95.0%	95.5%	0.5%

**Analysis:**

River LINE On-Time Performance for April 2006 was 99.2%, well above the performance achieved during the same month one year previously. Of the 2,870 trips scheduled for the month, 23 (or 0.8%) were delayed. There were no major causes for delay during the month, except for one instance of heavy street congestion in Camden.

The 12-month average for River LINE On-Time Performance for May 2005 - April 2006 was 95.5%, a slight increase from the performance of the previous 12-month period.

# **ACTION ITEMS**

**ITEM 0605-27: SOLE/SINGLE SOURCE VENDORS PURCHASE OF REPLACEMENT PARTS AND SERVICES (BUS, RAIL, AND HEADQUARTERS)**

**BENEFITS**

Materials and services which are available from only one source of supply are exempt from competitive procurement under N.J.A.C. 16:72-1.5(d) and for the most part the vendors have proprietary control over the manufacture of parts and components needed for NJ TRANSIT equipment.

The need for NJ TRANSIT to exercise sole and single source authority relates to non-general areas of procurement. Specific areas include, but are not limited to, the following:

**Replacement Parts from Original Equipment Manufacturers (OEMs)**

These parts or components are needed to repair and maintain rolling stock equipment specifically designed by the OEM manufacturer, where available technical data does not assure that a part or component supplied by another vendor will adequately perform the same function it replaces.

Anticipated major sole source vendors include Bombardier Transportation, Electro-Motive Diesel (EMD), ALSTOM Transportation, WABCO, MCI Service Parts, Kinkisharyo, NeoPlan and Prevost-Nova Bus.

**Sole Supplier Services**

Certain apparatus can only be serviced and/or tested by sole/single source vendors. For example, Sperry Rail Services is the only industry recognized source capable of simultaneously testing rail by induction and ultrasound methods. Systems America Inc. is the only qualified source for the repair of Solari display units.

**Rail Rolling Stock Brake Shoes**

NJ TRANSIT operates approximately 1077 passenger rail cars and locomotives daily. Brake shoes are replaced on all in-service equipment approximately every 20 days depending on service demands and equipment cycling. The brake shoes are specialized equipment and are available from one source of supply. Based upon past experience and test results, these products alone have met the required acceptable stop distances, wheel heat generation and acceptable shoe and wheel wear.

## **Additional Bus and Rail Requirements**

Over the past years, the Board has authorized sole/single approved source contracts for various materials and services. In each of the previous authorizations, the funding was predicated upon the anticipated volume of sole source purchases. Staff has developed, where feasible, specifications for several of the major components requiring heavy duty electrical repairs and other items such as passenger car brake pads, non-revenue vehicle repair services, train servicing, traction motor and gear unit repairs, etc.

A list of the sole/single source vendors is set forth in Exhibit A. The list is not inclusive but represents the best compilation of suppliers known to be in this category. Exhibit A may be revised by additions or deletions as needs change such as the delivery of new or rehabilitated equipment, extension of existing projects or services, warranty requirements, etc.

### **PURPOSE**

The operation and maintenance of NJ TRANSIT Bus, Rail and Headquarters requires the purchase of maintenance spares, services, modifications, upgrades and other programs, which can only be obtained from approved sole and single sources.

### **ACTION**

Staff requests authorization to enter into sole or single source procurement-by-exception contracts for the purchase of materials and services from approved vendors set forth in Exhibit A (subject to adjustments), to support Bus, Rail, Light Rail and Headquarters operations at a cost not to exceed \$22,000,000. This request will cover a 12-month period. All items or services purchased on a sole/single source basis will be subject to price or cost analysis to ensure the reasonableness of the prices provided.

This item has been reviewed and recommended by the Board Administration Committee.

### **FISCAL IMPACTS:**

<b>Requested Authorization:</b>	\$22,000,000
<b>Total Project Cost:</b>	\$22,000,000
<b>Projected Date of Completion:</b>	June 30, 2007
<b>Anticipated Source of Funds:</b>	FY2007 Operating Budget Capital Budgets
<b>DBE Goals:</b>	N/A
<b>Related Authorization:</b>	N/A

## RESOLUTION

**WHEREAS**, NJ TRANSIT requires maintenance items and services to support the operation of various major equipment; and

**WHEREAS**, it is necessary to obtain these required maintenance items and services from sole or single sources; and

**WHEREAS**, pursuant to N.J.A.C. 16:72 competitive procurement requirements may be waived in instances where only one source of supply is available;

**NOW, THEREFORE, BE IT RESOLVED**, that the Chairman or Executive Director is authorized to enter into sole/single source, procurement-by-exception, contracts for the purchase of parts and services from approved sole/single source vendors set forth in Exhibit A (subject to adjustments), at a total cost not to exceed \$22,000,000 for the period July 1, 2006 to June 30, 2007, subject to the availability of funds.

## EXHIBIT A

SOLE SOURCE/SINGLE SOURCE VENDORS NJ TRANSIT  
FY 2007

VENDOR NAME	CITY	ST	NJ	SBE/DBE
<b><u>NJ TRANSIT RAIL</u></b>				
ABB c/o Burgoyne Sales	Edison	NJ	X	
ABB Power T&D(Breakers)	Greensburg	PA		
ABB Power T&D(Transformers)	St Louis	MO		
ABC-NACO	Lombard	IL		
ABC-NACO	Downers Grove	IL		
Abell-Howe Co	Forrest Park	IL		
ABM-American Building Maint	New York	NY		
Accu-Weather	State College	PA		
ADT Security Systems	Princeton	NJ	X	
Advanced Track Products	Mattituck	NY		SBE
AFA Protective Systems	No Brunswick	NJ	X	
Air Con Inc	Mountainside	NJ	X	
Almex Div-Metric Group	Lyndhurst	NJ	X	
Alstom Signaling (GRS)	Rochester	NY		
Alstom Transport Service NA	Lisle	IL		
Alstom USA, Inc.-Transortation	Hornell	NY		
AMTRAK	Philadelphia	PA		
Anchor Brake Shoe Co	Park Ridge	IL		
Anixter Inc	Cranbury	NJ	X	
AREVA T&D, Inc.	Bethlehem	PA		
Arkansas Industrial Computing	Sherwood	AR		
Avtron Manufacturing	Cleveland	OH		
AVO Multiamp Corp./Megger	Dallas	TX		
ABB Control Inc.	Wichita Falls	TX		
Amcrete Products	Newburgh	NY		
Baultar Inc.	Windsor	QE		
Boca Systems	Boca Raton	FL		SBE
Bombardier Inc/Aftermarket	Ontario, Canada			
Bombardier/Daimler-Chrys	Pittsburgh	PA		
Buckeye Steel	Columbus	OH		
Burro Crane Div Badger				
Better Engineering	Baltimore	MD		
Camfil Farr Inc	Laval, Quebec	CN		
Carbone of America	Boonton	NJ	X	

Cembre Inc	Edison	NJ	X	
Century Petroleum	Farmingdale	NY		
C-K Composites	Mt Pleasant	PA		
CMI-Promex	Fredericktown	NJ	X	SBE
Computerized Display Svs	New York	NY		
Contemporary MachineTool	Flagler Beach	FL		
Cooper Electric Generator	Neptune	NJ	X	
CR Quality Services Inc	Gap	PA		
Cubic Transp Systems	Tullahoma	TN		
Cummins Metropower	Newark	NJ	X	MBE
Cummins Power Systems	Bristol	PA		
Cleveland Price	Trafford	PA		
Concord Communications	Marlboro	MA		
Design Dimensions	Austin	TX		SBE
Digital Printing Systems	Azusa	CA		
Dynatec Inc	Burlington	NJ	X	
Deer Park Natural Spring Water	Raynham	MA		
Electrocube, Inc.	Monrovia	CA		
EB Rebosio S.R.L.	Greensburg	PA		
Faiveley Rail	Exton	PA		
Ferraz Shawmut Inc	Newburyport	MA		
Flakt Fan Group	Niles	MI		
Flender Corporation	Elgin	IL		
Freedom Machine	Holmes	PA		SBE
Freudenberg Building Systems	Lawrence	MA		
GE Transp Global Signals	Hingham	MA		
Gar-Ren Tool & Machine Co	Prospect Park	PA		
Gardner Denver Machinery	Quincy	IL		
GE Transp Global Signals	Grain Valley	MO		
GE Transportation Parts/Eng	Latham	NY		
General Electric Co	North Bergen	NJ	X	
General Electric Energy	Philadelphia	PA		
Globe Ticket & Label	Warminster	PA		
Globe Transportation Graphics	Baltimore	MD		
Gough & Associates, Inc	Orlando	FL		
Green Vest	Cherry Hill	NJ	X	
Groupe Tekdata	Quebec, Canada			
Graybar Electric Company	Parsippany	NJ		
Graham White Sales Corp.	Salem	VA		
Hegenscheidt Corp.	Sterling Heights	MI		
Hi Tran Corporation	Flemington	NJ	X	
Honeywell (Electro)	Sarasota	FL		
Honeywell, Inc	Marlton	NJ	X	
Hudson Machine Works	Brewster	NY		SBE
HARSCO Track Technologies	W.Columbia	SC		
Hirail Corporation	Lisbon	IA		

Henkels & McKoy	York	PA		
IMPulse NC	Mt Olive	NC		
Ingersoll-Rand Air Center	Aston	PA		
Ingersoll-Rand Air Center	Edison	NJ	X	
Infiltek	Mississauga	ONT		
Industrial Controls	Wanamassa	NJ	X	
J Harold Kelly Assoc	Marietta	GA		
Jala Equipment Co	Ft Lauderdale	FL		
Jamaica Bearings	New Hyde Park	NY		SBE
JMA Rail Products	Carol Stream	IL		
Johnson Controls Inc	Union	NJ	X	
J T. Nelson Company	Louisville	KY		
Kim Hotstart Mfg. Co.	Spokane	WA		
Kershaw Manufacturing Co	Montgomery	AL		
Knorr Brake Corp/NYAB	Westminster	MD		
Kupltec Corp	Branford	CT		SBE
Lapp Insulator	Syracuse	NY		
Liebert Global	Westerville	OH		
Loram Maintenance of Way	Hamel	MN		
Luminator/Gulton Inc	Plano	TX		
LTK Engineering Services, Inc.	Ambler	PA		
Magic Ram Inc	Los Angeles	CA		
Magnadata USA	Toms River	NJ	X	SBE
Mateson Chemical Co	Philadelphia	PA		
Matrix Information Consulting	Rochelle Park	NJ	X	WBE
Matrix Railway Corp	West Babylon	NY		
Microphor Inc	Willits	CA		SBE
Mllennium Communications	East Hanover	NJ	X	
Moore Wallace NA	Edison	NJ	X	
Mors Technologies	Quebec, Canada			
Motion Industries	Elizabeth	NJ	X	
National Railway Supply	Savannah	GA		
NJC Enterprises	Little Egg Harbor	NJ		
On Site Energy Co.	Hillside	NJ		
Orgo-Thermit Inc	Lakehurst	NJ	X	
OK Electric	Perth Amboy	NJ	X	
Online Ink Ltd.	Washington Twp	NJ	X	
PACS Industries Inc	Great Neck	NY		
Pandrol USA	Bridgeport	NJ	X	SBE
Plasser American	Chesapeake	VA		
Pocatec Ltee	La Pocatiere	CN		
Power Parts-GE	Hanover Park	IL		
Propellex Corporation	Edwardsville	IL		
Quantum Engineering Inc	Orange Park	FL		
Radlinski & Associates	East Liberty	OH		
Rail Systems Inc	Houma	LA		

Rail Transit Consultants Inc	Penn	PA		
Railroad Friction Prod	Laurinburg	NC		
Rails Company	Maplewood	NJ	X	SBE
Railway Equipment Co	Delanao	MN		SBE
Robinette, Inc.	Medina	OH		
Rotary Lift	Madison	IN		SBE
RTR Technologies	Stockbridge	MA		
RAM Motors & Controls	Harrisburg	PA		
Rail Products International	Columbus	OH		
S & A Systems Inc	Rockwall	TX		
S.A.R. Automotive Equipt	Collingswood	NJ	X	SBE
Safetran Systems	Louisville	KY		
SAFT Nife Inc	Cockeysville	MD		
Schunk Graphite Technology	Menimonee Falls	WI		
Sherman & Reilly	Chattanooga	TN		
Siemens Building Tech.	Pine Brook	NJ	X	
Simmons Machine Tool Corp.	Albany	NY		
Permadur/Sissco Material	Hillsborough	NJ	X	
Skycomp Corporation	Columbia	MD		
SMC Electrical Products	Barboursville	WV		
Smith Systems Inc	Brevard	NC		
Sperry Rail Service	Danbury	CT		
Star Machine & Tool	Minneapolis	MN		
Stavola Construction Materials	Bound Brook	NJ	X	SBE
Sternberg Vintage Lighting	Niles	IL		
Systra Consulting	Lebanon	NH		
S.D. Myers, Inc.	Tallmadge	OH		
Simplex Grinnell	Rockaway	NJ		
Supply Chain Integration	Camden	NJ	X	
Snyder Equipment Company	Nixa	MO		
Tampa Electric	Tampa	FL		
Techologies LBBA	Quebec	CA		
Tenant Sales & Service	Minneapolis	MN		
ThyssenKrupp Elevator	Cranford	NJ	X	
Transcon Inc	Mentor	OH		
Transmatic Inc	Wilmington	NC		
Transportation Technology	Yonkers	NY		
Transtech of SC	Piedmont	SC		
Transtechnik Corp USA	Mahwah	NJ	X	
TTA Systems, LLC	Bath	NY		
Turtle & Hughes	Bridgewater	NJ	X	
TVSS Inc	Apalachin	NY		SBE
Union Switch & Signal	Batesburg	SC		
United Knitting Machine	Kulpsville	PA		SBE
Univeristy of Minnesota	Minneapolis	MN		SBE
Utilcom Inc	Eatontown	NJ	X	MBE

Vapor Rail (CANADA)	Quebec, Canada	
Vericom Computers	Rogers	MN
WABTEC Global Services	Columbia	SC
WABCO Locomotive Products	Wilmerding	PA
WABCO Passenger Transit	Spartanburg	SC
WABTEC RailwayElectronic	Germantown	MD
Westcode Inc	West Chester	PA
Whitehurst & Associates	Cockeysville,	MD
Windsor Fireform	Tumwater	WA
Whiting Corp.	Monee	IL
Western Cullen Hayes	Chicago	IL

**NJ TRANSIT BUS**

AFA Protective Systems	No Brunswick	NJ	X	
Atlantic Detroit Diesel	Lodi	NJ	X	
B & R Manufacturing Inc	Elkhart	IN		
Bergen Auto Upholstery	So Hackensack	NJ	X	SBE
Bigler Assoc	Toms River	NJ	X	
Clever Devices	Syosset	NY		
Cubic Transp Systems	New York	NY		
Cummins Metropower	Newark	NJ	X	MBE
Dialight	Farmingdale	NJ	X	
Digital Printing Systems	Azusa	CA		
DVL Automation	Bristol	PA		
Dynatec Inc	Burlington	NJ	X	
Deer Park Natural Spring Water	Raynham	MA		
Exxon Mobil Oil Corp	Philadelphia	PA		
Foley	Piscataway	NJ	X	
Gough & Associates	Orlando	FL		
Hanover Company	Broken Arrow	OK		
Honeywell Inc	Marlton	NJ	X	
I/O Controls Corp	Plano	TX		SBE
Ingersoll-Rand Air Center	Aston	PA		
Ingersoll-Rand/Northland	East Hanover	NJ	X	
Ingersoll-Rand Air Center	Edison	NJ	X	
Jala Equipment Co	Ft Lauderdale	FL		
JB I Spray Booth Supply	Osseo	WI		
Johnson & Towers	Mt Laurel	NJ	X	
Jasper Engines & Trans	Jasper	IN		
Laird Plastics	Brooklyn	NY		SBE
Liebert Global	Westerville	OH		
Luminator Div Gulton Ind	Plano	TX		
Lift-U-Inc.	Escalon	CA		
Lincoln Service & Equipment	Durham	CT		
MCI Service Parts	Schaumburg	IL		

Moore Wallace NA	Edison	NJ	X	
Muncie Reclamation Supply	Muncie	IN		
NCR	Essex Fells	NJ	X	
Neopart	Honeybrook	PA		
North American Fabrics	Wyomissing	PA		
Precision Transmission	Colmar	PA		SBE
Prevost-Novabus Parts	Elgin	IL		
Recaro North America	Auburn Hills	MI		
S.A.R. Automotive Equipt	Collingswood	NJ	X	SBE
Scantron Corp	Tustin	CA		
Siemens Building Tech.	Pine Brook	NJ	X	
Tennant Sales & Service Co.	Minneapolis	MN		
Thermo King East Inc	Carlstadt	NJ	X	
Transmark	Boulder	CO		
Transmatic	Waterford	MI		
USSC Group	King of Prussia	PA		
Veeder Root Co	Simsbury	CT		
Vericom Computers	Minnetonka	MN		
Volvo GM Heavy Truck	Chesapeake	VA		
Wayfarer Transit Systems	Elizabeth	NJ	X	
ZF Industries	Vernon Hills	IL		

**ITEM 0605-28: AMENDMENT TO THE REHABILITATION AND REPAIR TO ROSEVILLE CUT NORTH RETAINING WALL, MORRIS & ESSEX LINES, NEWARK, NJ**

**BENEFITS**

NJ TRANSIT is responsible for maintaining the infrastructure to guarantee reliable service throughout its system. Merco, Inc. of Lebanon, NJ, is performing ongoing rehabilitation and repair of the North Retaining Wall of the Roseville Cut on the Morris & Essex Lines in Newark, NJ. This effort will improve the structural integrity and reliability of the wall and allow for increased on-time performance. This renewal will significantly reduce the number of periodic track outages required to inspect and maintain the deteriorated wall and utility lines.

**PURPOSE**

Authorization of this amendment will allow for full repair and rehabilitation of the North Retaining Wall. The wall was constructed in the early 1900s and is currently undergoing significant repair due to serious concrete deterioration. Performing the additional work will allow NJ TRANSIT to fully repair the North Retaining Wall in the most cost-effective manner.

As work has progressed on the North Retaining Wall, additional areas of concrete repair have been discovered. Utilizing the contractor on site and the existing track outage provides the most efficient and economical means for NJ TRANSIT to perform the additional work.

This work is being performed in conjunction with the planned track outages for the Newark Broad Street Station Americans With Disabilities Act (ADA) Compliance Project (NJ TRANSIT Contract 02-102), which will allow NJ TRANSIT a maximum return on its investment.

**ACTION (Justification: State-of-Good-Repair)**

Staff seeks authorization to amend Contract No. 05-038 with Merco, Inc., of Lebanon, NJ, for additional rehabilitation and repair of the North Retaining Wall of the Roseville Cut, at a cost not to exceed \$1,700,000 plus five percent for contingencies at a total cost not to exceed \$5,482,408, subject to the availability of funds.

This item has been reviewed and recommended by the Board Capital Planning, Policy and Privatization Committee.

**FISCAL IMPACTS**

**Requested Authorization:** \$1,700,000 + 5% contingency

<b>Total Project Cost:</b>	\$7,000,000
<b>Projected Date of Completion:</b>	December 2006
<b>Anticipated Source of Funds:</b>	TTF FY06
<b>DBE Goal:</b>	15%
<b>Related/Future Authorizations:</b>	FY-06, FY-07 funding for repair of Roseville South Wall

## RESOLUTION

**WHEREAS**, NJ TRANSIT is responsible for maintaining the Right-of-Way on the Morris & Essex Lines in the City of Newark, NJ; and

**WHEREAS**, the rehabilitation of the North Retaining Wall within the Roseville Cut is underway; and

**WHEREAS**, additional work has been identified in the walls that can be most efficiently repaired by the contractor on site; and

**WHEREAS**, the opportunity to perform this additional rehabilitation work while making use of track outages scheduled for the Newark Broad Street Station Americans With Disabilities Act (ADA) Project exists;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is authorized to amend Contract No. 05-038 with Merco, Inc., of Lebanon, NJ, for additional rehabilitation and repair of the North Retaining Wall of the Roseville Cut, at a cost not to exceed \$1,700,000 plus five percent for contingencies, at a total cost not to exceed \$5,482,408, subject to the availability of funds.

# CONSENT CALENDAR

**ITEM 0605-29: AMENDMENT TO ATLANTIC CITY RAIL TERMINAL SHUTTLE SERVICE AGREEMENT**

**BENEFITS**

Atlantic City Rail Line riders rely on connecting shuttle bus service between various hotel and casino locations and the Atlantic City Rail Terminal and Convention Center. The Atlantic City Jitney Association (ACJA) has provided the shuttle service under contract with NJ TRANSIT since July 1998. Continuation of this service is important to Atlantic City Rail Line riders and to the Atlantic City community.

**PURPOSE**

Authorization will continue operation of the Atlantic City Rail Terminal shuttle service past June 30, 2006 when the current agreement with ACJA expires. The shuttle service meets each arriving and departing train and operates 23 hours per day and 365 days per year. This extension will provide time for staff to evaluate other options for providing this service and whether the service might be operated more economically based on competitive procurement.

**ACTION (Justification: Cost Efficiencies)**

Staff seeks authorization to extend the existing agreement with the Atlantic City Jitney Association for the operation of Atlantic City Rail Terminal shuttle service for six months, from July 1, 2006 through December 31, 2006, at a total cost not to exceed \$788,250, plus five percent for contingencies.

This item has been reviewed and recommended by the Board Administration Committee.

**FISCAL IMPACTS**

<b>Requested Authorization:</b>	\$788,250 (6-month operations), plus 5% for contingencies
<b>Total Project Cost:</b>	N/A
<b>Projected Date of Completion:</b>	December 31, 2006
<b>Anticipated Source of funds:</b>	Fiscal Year 2007 Operating Budget
<b>DBE Goals/Participation:</b>	N/A
<b>Related/Future Authorizations:</b>	N/A
<b>Impact on Subsequent Operation Budgets:</b>	None

## RESOLUTION

**WHEREAS**, the Atlantic City Jitney Association (ACJA) has provided shuttle bus service between various hotel and casino locations in Atlantic City and the Atlantic City Rail Terminal and Convention Center since July 1998; and

**WHEREAS**, NJ TRANSIT recognizes that the Atlantic City community and Atlantic City Rail Line riders benefit from the rail terminal shuttle service; and

**WHEREAS**, an extension of the current agreement with ACJA will provide time for staff to evaluate other options for providing this service and whether the service might be operated more economically based on competitive procurement;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director is hereby authorized to execute all agreements and to take other actions necessary consistent with this Board action to extend the current contract with the Atlantic City Jitney Association for the operation of the Atlantic City Rail Terminal shuttle service for six months, at a cost not to exceed \$788,250, plus five percent for contingencies, subject to the availability of funds.

**ITEM 0605-30:       REGULATION: RE-ADOPTION WITH AMENDMENTS OF  
N.J.A.C. 16:72 PROCUREMENT POLICIES AND PROCEDURES**

**BENEFITS**

The re-adoption with amendments of N.J.A.C. 16:72, Procurement Policies and Procedures, will allow NJ TRANSIT to continue to provide statewide transit services to the public on a daily basis and support NJ TRANSIT's capital improvement program, resulting in a better quality of services to the public and the improvement and maintenance of the infrastructure for the public's use in the future. The procedures delineated in the rules provide protection of the interest of the general public and of the potential vendors/contractors.

**PURPOSE**

In accordance with Executive Order No. 66 (1978), N.J.A.C. 16:72, Procurement Policies and Procedures, is scheduled to expire November 10, 2006 (Exhibit A). N.J.A.C. 16:72 contains the requirements governing NJ TRANSIT's procurement of goods and services, as well as the debarment, suspension and disqualification of a person from doing business with NJ TRANSIT.

The proposed amendments update the bidding threshold to comply with N.J.S.A. 52:34-7 and add non-compliance with the material requirements of New Jersey Small Business Enterprise program as a ground for bid rejection. The proposed amendments ensure that the rules comply with existing legislation and programs that promote small business participation in NJ TRANSIT procurements.

The proposed amendments were published in the New Jersey Register on December 19, 2005 (Exhibit B) and are described in the summary (Exhibit C). The comment period expired February 17, 2006, and no comments were received.

**ACTION**

Staff seeks authorization to take all actions necessary to adopt with amendments the regulations, N.J.A.C. 16:72 et seq., Procurement Policies and Procedures, consistent with this Board item and exhibits, put the regulations in the appropriate format and take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procurement Policies and Procedures.

This item has been reviewed and recommended by the Board Administration Committee.

**FISCAL IMPACTS**

<b>Requested Authorization:</b>	Adopt the regulations <u>N.J.A.C.</u> 16:72 et seq. Procurement Policies and Procedures
<b>Total Project Cost:</b>	N/A
<b>Projected Date of Completion:</b>	N/A
<b>Anticipated Source of Funds:</b>	N/A
<b>DBE Goal:</b>	N/A – No goods or services to be procured.
<b>Related /Future Authorizations:</b>	N/A
<b>Impacts on Subsequent Operating Budgets:</b>	N/A

## RESOLUTION

**WHEREAS**, staff seeks authorization to take all actions necessary to adopt the regulations N.J.A.C. 16:72 et seq., Procurement Policies and Procedures; and

**WHEREAS**, in accordance with Executive Order No. 66 (1978), the rules at N.J.A.C. 16:72 will expire November 10, 2006 (Exhibit A); and

**WHEREAS**, the re-adoption with amendments of the Procurement Policies and Procedures will allow NJ TRANSIT to continue to provide statewide transit services to the public on a daily basis and support NJ TRANSIT's capital improvement program, resulting in a better quality of services to the public and the improvement and maintenance of the infrastructure for the public's use in the future. The procedures delineated in the rules provide protection of the interest of the general public and of the potential vendors/contractors; and

**WHEREAS**, the proposed amendments ensure that the rules comply with existing legislation and programs that promote small business participation in NJ TRANSIT procurements; and

**WHEREAS**, the proposed amendments were published in the New Jersey Register on December 19, 2005 (Exhibit B) and are described in the summary (Exhibit C). The comment period expired February 17, 2006 and no comments were received;

**NOW, THEREFORE, BE IT RESOLVED** that the Chairman or Executive Director or his designee is hereby authorized to take all actions necessary to adopt N.J.A.C. 16:72 et seq. consistent with this Board item and exhibits, put the regulations in the appropriate format, and to take all other actions necessary to effectuate the final adoption and promulgation of NJ TRANSIT's Procurement Policies and Procedures.

## TRANSIT PROCUREMENT POLICIES &amp; PROCEDURES

16:72-1.2

## CHAPTER 72

NEW JERSEY TRANSIT PROCUREMENT POLICIES  
AND PROCEDURES

## Authority

N.J.S.A. 27:25-5(e), 27:25-11, 2A:44-143, 49 U.S.C.  
§§ 5301 et seq. and 49 CFR Part 18.

## Source and Effective Date

R.2001 d.191, effective May 14, 2001.  
See: 33 N.J.R. 987(a), 33 N.J.R. 1924(b).

## Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 72, New Jersey Transit Procurement Policies and Procedures, expires on November 10, 2006. See: 37 N.J.R. 4902(a).

## Chapter Historical Note

Chapter 72, New Jersey Transit Procurement Policies and Procedures, was adopted as R.1981 d.176, effective June 4, 1981. See: 13 N.J.R. 158(a), 13 N.J.R. 374(d).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted as R.1986 d.134, effective March 31, 1986. See: 18 N.J.R. 404(a), 18 N.J.R. 847(c).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted as R.1991 d.206, effective March 20, 1991. See: 23 N.J.R. 290(a), 23 N.J.R. 1148(b).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, expired on March 20, 1996.

Chapter 72, New Jersey Transit Procurement Policies and Procedures, was adopted as new rules by R.1996 d.239, effective May 20, 1996. See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted as R.2001 d.191, effective May 14, 2001. See: Source and Effective Date. See, also, section annotations.

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 16:72-1.1 Source for public information

The public may receive information concerning NJ TRANSIT's procurement program by contacting the Procurement Department, NJ TRANSIT, One Penn Plaza East, Newark, New Jersey 07105-2246.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on description of organization deleted; text on source for public information recodified from section 1.2.  
Amended by R.1994 d.211, effective May 2, 1994.  
See: 26 N.J.R. 908(b), 26 N.J.R. 1842(a).

## 16:72-1.2 Definitions

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

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

"Bid security" means a guarantee, in the form of a bond or deposit consisting of a cashier's check, certified check or irrevocable letter of credit that the bidder, if selected, will accept the contract as bid; otherwise, the bidder or its guarantor will be liable for the amount of the loss suffered by NJ TRANSIT, which loss may be partially or completely recovered by NJ TRANSIT in exercising its rights against the bond or deposit.

"Contracting" means any arrangement giving rise to an obligation to supply anything or perform any service for NJ TRANSIT, other than by virtue of employment, or to supply anything to or perform any service for a private or public person where NJ TRANSIT provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or services or the persons who may supply or perform the same.

"Days" means calendar days unless otherwise specified.

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

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

"Line item" means a procurement item specified in the Invitation for Bids for which the bidder is asked to give individual pricing information.

"NJ TRANSIT means the New Jersey Transit Corporation which was established by N.J.S.A. 27:25-1 et seq. and its subsidiaries.

"Payment bond" means a guarantee in the form of a bond that the vendor will pay all of its obligations to its subcontractors and suppliers and that NJ TRANSIT subcontractors and suppliers will be protected from loss in the event that the vendor fails to make payment as agreed.

"Performance bond" means a guarantee, provided prior to execution of a contract, in the form of a bond that the successful bidder will complete the contract as agreed and that NJ TRANSIT will be protected from loss in the event the vendor fails to complete the contract as agreed.

"Person" means any natural person, company, firm, association, corporation, or other entity.

"Procurement" means the awarding of contracts for construction, alterations, supplies, equipment, repairs or maintenance, or for rendering any services to NJ TRANSIT.

"Suspension" means an exclusion from NJ TRANSIT contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

"Term contract" means a contract in which a source or sources of supply are established for a specified period of time, usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

"Vendor" means any person, firm, corporation, or other entity which provides or offers or proposes to provide goods or services to or perform any contract for NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on source for public information recodified to section 1.1; definitions recodified from section 1.3, with "Director" and "Division" deleted and "Payment bond" and "Vendor" added.

Amended by R.1994 d.211, effective May 2, 1994.

See: 26 N.J.R. 908(b), 26 N.J.R. 1842(a).

Amended by R.1996 d.239, effective May 20, 1996.

See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

### 16:72-1.3 Competition

All purchases, whether by formal advertising or otherwise, shall be made on a competitive basis to the maximum practicable extent.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Definitions recodified to section 1.2; text on competition recodified from section 1.4.

### 16:72-1.4 Responsible contractors

(a) Procurement shall be made from, and contracts shall be awarded to, responsible contractors only. A responsible contractor is one who meets the following standards:

1. Has adequate financial resources, or the presently certifiable ability to obtain such resources as required during the performance of the contract, if adequate security is not otherwise furnished;
2. Is able to comply with the required or proposed delivery or performance schedule;
3. Has a satisfactory record of performance or the equivalent;
4. Has a satisfactory record or reputation of integrity;
5. Is otherwise qualified and eligible to receive an award under applicable laws and regulations;
6. Has the necessary organization, experience, operational controls and technical skills, or the ability to obtain them; and
7. Has the necessary production, construction and technical equipment and facilities, or the ability to obtain them.

(b) NJ TRANSIT shall establish procedures for determining whether a prospective contractor has met the standards of a responsible contractor.

(c) A prospective contractor shall be deemed not responsible with respect to a specific matter for which bids

## TRANSIT PROCUREMENT POLICIES & PROCEDURES

16:72-1.5

are solicited when NJ TRANSIT has previously held it in default on a contract for that matter.

(d) All contractors must be authorized to do business in the State of New Jersey.

(e) Disclosure shall be made by all prospective contractors of names and addresses of all stockholders and/or partners holding 10 percent or more interest in the firm.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on competition recodified to section 1.3; text on responsible contractors recodified from section 1.5.

### 16:72-1.5 Methods of procurement

(a) Invitation for bid: Except as provided in (c) and (d) below, the formal advertising procedures contained in N.J.A.C. 16:72-2 shall be followed for all purchases or contracts in excess of the amounts determined pursuant to Section 2 of P.L. 1954, c.48 (N.J.S.A. 52:34-7).

(b) Quotation: Except as provided in (c) and (d) below, purchases or contracts not in excess of the amounts determined pursuant to Section 2 of P.L. 1954, c.48 (N.J.S.A. 52:34-7) shall be made:

1. For purchases up to and including \$5,000—minimum of one quote;
2. For purchases from \$5,001 up to and including \$15,000—minimum of two verbal quotes; and
3. For purchases from \$15,001 up to \$25,000—minimum of two written quotes.

(c) Request for proposals/negotiations: The procurement of professional and technical services in excess of the amounts determined pursuant to Section 2 of P.L. 1954, c.48 (N.J.S.A. 52:34-7) shall be accomplished through the issuance of a request for proposal to a minimum of three vendors and subsequent negotiation, except where determined by the Executive Director or his or her designee, in writing, that an alternative method of procurement is in NJ TRANSIT's best interest.

(d) Procurement-by-exception: The requirements of (a), (b) and (c) above may be waived under the following circumstances:

1. The acquisition of public or private entities engaged in the provision of public transportation service, used public transportation equipment or existing public transportation facilities or rights of way;
2. The purchase of perishable foods or subsistence supplies;
3. The leasing of such office space, office machinery, specialized equipment, buildings or real property as may be required for the conduct of NJ TRANSIT's business;
4. The acquisition of any real property by gift, grant, purchase or any other lawful manner in the name of and for the use of NJ TRANSIT for the purpose of the

administration of NJ TRANSIT's business in accordance with appropriations made therefor when moneys are required for the acquisition;

5. The procurement of supplies or services for which the bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition, provided that no negotiated purchase, contract, or agreement may be entered into under this paragraph after the rejection of all bids received unless:

- i. Notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by NJ TRANSIT to each responsible bidder;
- ii. The negotiated price is lower than the lowest rejected bid price of a responsible bidder; and
- iii. Such negotiated price is the lowest negotiated price offered by any responsible supplier.

6. The purchase is to be made from, or the contract to be made with, the Federal or any State government or any agency or political subdivision thereof;

7. The public exigency requires the immediate delivery of the articles or performance of the service;

8. Only one source of supply is available;

9. More favorable terms can be obtained from a primary source of supply;

10. Articles of wearing apparel are to be purchased which are styled or seasonal in character;

11. Commodities traded on a national commodity exchange are to be purchased and fluctuations of the market require immediate action;

12. The equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest;

13. The procurement of services to be performed by the contractor personally under the supervision of the Executive Director, or his or her designee, and paid for on a time basis; and

14. To acquire or overhaul motorbuses, light rail vehicles, rail cars, locomotives, signal systems or fare collection systems.

(e) Authority for procurement-by-exception: The authority for procurement under the circumstances listed above rests with the Executive Director for procurement transactions not in excess of the amounts determined pursuant to Section 2 of P.L. 1954, c.48 (N.J.S.A. 52:34-7). Transactions in excess of the amounts determined pursuant to Section 2 of P.L. 1954, c.48 (N.J.S.A. 52:34-7) will require approval as may be set forth in the By-Laws of NJ TRANSIT.

(f) Fragmentation of requirements: NJ TRANSIT's purchase requirements shall not be split into parts for the purpose of avoiding the provisions of (a), (b), or (c).

Amended by R.1986 d.2, effective February 3, 1986.

See: 17 N.J.R. 2867(a), 18 N.J.R. 308(c).

(b): "500.00" changed to "\$2,000" and "\$2,000" changed to "\$5,000."

Amended by R.1990 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on responsible contractors recodified to section 1.4; text on methods of procurement recodified from section 1.6; with alternative procurement provisions added.

Amended by R.1994 d.211, effective May 2, 1994.

See: 26 N.J.R. 908(b), 26 N.J.R. 1842(a).

Amended by R.1996 d.546, effective December 2, 1996.

See: 28 N.J.R. 4181(a), 28 N.J.R. 5078(b).

Amended by R.2001 d.38, effective January 16, 2001.

See: 32 N.J.R. 3751(a), 33 N.J.R. 285(a).

Rewrote (b).

### 16:72-1.6 Records of procurement actions

In all procurement actions, each purchase order or contract file shall be supported by documentation of actions taken with respect to the procurement, including final disposition, sufficient to constitute a full history of the transactions. Records on bids and proposals shall be maintained for a period of seven years.

Recodified by R.1991 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on methods of procurement recodified to section 1.5; text on records of procurement actions recodified from section 1.7.

### 16:72-1.7 Execution of contracts

Any contract or instrument shall be deemed properly executed when signed by the Executive Director of NJ TRANSIT or his designee. No contract or purchase order shall be entered into unless all applicable requirements of law and these regulations have been met, and the approval of the Board of NJ TRANSIT obtained when required.

Recodified by R.1991 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on records of procurement actions recodified to section 1.6; text on execution of contracts recodified from section 1.8.

### 16:72-1.8 Specifications

Plans, drawings, or specifications shall state only the actual minimum needs of NJ TRANSIT and describe the work to be performed in a manner which encourages maximum competition and eliminates, insofar as possible, any restrictive features which might limit acceptable offers to a relatively few bidders. Specifications, plans and drawings without reference to brand names or items manufactured by a single company shall be used to the maximum extent possible.

Amended by R.1990 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on specifications recodified from section 1.9, with stylistic changes.

### 16:72-1.9 Purchase descriptions

(a) A purchase description may be used in lieu of a specification, where the use of a specification is not feasible.

1. A purchase description should set forth the essential characteristics and functions of the item or materials required.

2. Purchase descriptions shall not be written so as to specify a product, or a particular feature of a product, peculiar to one manufacturer, unless it is determined that the particular feature is essential to NJ TRANSIT's requirements, and that similar products of other companies lacking the particular feature would not meet the minimum requirements for the item.

3. Generally, the minimum acceptable purchase description is the identification of a requirement by use of a brand name followed by the words "or equal".

i. Where a "brand name or equal" purchase description is used, prospective contractors must be given the opportunity to offer products other than those specifically referenced by brand name if such other products will meet the needs of NJ TRANSIT in essentially the same manner as those referenced.

Amended by R.1990 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on specifications recodified to section 1.8; text on purchase descriptions recodified from section 1.10.

### 16:72-1.10 Out-of-State vendors

All out-of-State corporations that wish to do business with NJ TRANSIT shall be afforded seven days to register with the Secretary of State of New Jersey, after notification by NJ TRANSIT of the intent to award that out-of-State firm a contract. Failure to provide either certification or notification of filing with the Secretary of State within the seven-day period may constitute cause for rejection of that firm's bid or proposal.

Recodified by R.1991 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on purchase descriptions recodified to section 1.9; text on out-of-State vendors recodified from section 1.11.

### 16:72-1.11 (Reserved)

Recodified by R.1991 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on out-of-State vendors recodified to section 1.10.

## SUBCHAPTER 2. BIDDING PROCEDURES

### 16:72-2.1 Advertising of bids

The advertisement for bids shall be placed in such newspaper or newspapers selected by NJ TRANSIT that will give best notice thereof to bidders. Advertisements shall be made a minimum of 20 calendar days in advance of the bid opening. The advertisement shall designate the time and place, when and where sealed bids shall be received and publicly opened and read, and such other terms as NJ TRANSIT may deem proper.

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Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Deposit with bid deleted, unless specified.

**16:72-2.2 Bid bonds**

A bid (proposal) bond or a deposit consisting of a cashier's check, certified check or irrevocable letter of credit drawn to the order of NJ TRANSIT in an amount to be determined by NJ TRANSIT, but not exceeding 50 percent of the bid, shall accompany all bids to serve as a guarantee that the bidder will, upon acceptance of its bid, execute such contractual documents as may be required within 10 working days after issuance of a notice of intent to award any bonds submitted pursuant to this section must be executed by surety companies licensed to do business in the State of New Jersey. Any letters of credit shall be issued by Federally insured financial institutions.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

Amended by R.1994 d.211, effective May 2, 1994.  
See: 25 N.J.R. 908(b), 25 N.J.R. 1342(a).

**16:72-2.3 Performance and payment bonds**

(a) In accordance with N.J.S.A. 2A:44-143 as amended, a performance bond not to exceed 100 percent of the contract price shall be required of the successful bidder when a contract for public buildings, or other public works or improvements is awarded to secure fulfillment of the contractor's obligations specified in the contract. The bond percentage required, based upon NJ TRANSIT's assessment of the risks presented to the State by the type of contract and other relevant factors, shall be identified in the bid documents prior to the contract bidding date. NJ TRANSIT may waive the bond requirement entirely if the contract is for a sum not exceeding \$200,000. In determining whether to waive the bond requirement, NJ TRANSIT shall consider the following:

1. The nature and extent of the work to be performed;
2. The availability of potential bidders to perform the work; and
3. The financial and other capabilities of the potential bidders.

(b) A performance bond of less than 100 percent of the contract or some other form of security as set forth in the bid specifications prior to bid opening may be required, at NJ TRANSIT's sole discretion, of the successful bidder when a contract for other procurements is awarded to secure fulfillment of the contractor's obligation specified in the contract.

(c) In accordance with N.J.S.A. 2A:44-143 as amended, a payment bond not to exceed 100 percent of the contract price shall be required of the successful bidder when a contract for public buildings, or other public works or improvements is awarded to protect firms or persons supply-

ing labor materials to the contractor/subcontractor for the performance of work provided for in the contract. The bond percentage required, based upon NJ TRANSIT's assessment of the risks presented to the State by the type of contract and other relevant factors, shall be identified in the bid documents prior to the contract bidding date. NJ TRANSIT may waive the bond requirement entirely if the contract is for a sum not exceeding \$200,000. In determining whether to waive the bond requirement, NJ TRANSIT shall consider the following:

1. The nature and extent of the work to be performed;
2. The availability of potential bidders to perform the work; and
3. The financial and other capabilities of the potential bidders.

(d) A payment bond of less than 100 percent of the contract or some other form of security as set forth in the bid specifications prior to bid opening may be required, at NJ TRANSIT's sole discretion, of the successful bidder when a contract for other procurements is awarded to protect firms or persons supplying labor or materials to the contractor/subcontractor for the performance of work provided for in the contract.

(e) Performance and payment bonds must be executed by surety companies licensed to do business in the State of New Jersey.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Payment bond of 100% changed to performance bond of less than 100%.

Amended by R.1995 d.570, effective November 6, 1995.  
See: 27 N.J.R. 2375(a), 27 N.J.R. 4445(a).

**16:72-2.4 Pre-qualification of firms for capital projects**

(a) Prospective contractors, prior to bidding on improvements to capital facilities and equipment, must be pre-qualified as to the character or amount of work or both for which they are permitted to submit bids. Such pre-qualification shall be based on all factors relating to contractor responsibility as set forth in N.J.A.C. 16:72-1.4, and any pertinent information relating to the qualifications of contractors.

(b) Such pre-qualification, as noted in (a) above, shall be assigned contractors based on information submitted by them in response to a questionnaire provided by NJ TRANSIT. A prospective contractor dissatisfied with its pre-qualification classification may request an informal hearing to present additional information to justify a different classification. After hearing the additional evidence, NJ Transit may, in its discretion, change or modify the bidder's classification.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

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Amended by R.1994 d.211, effective May 2, 1994.  
See: 26 N.J.R. 908(b), 26 N.J.R. 1342(a).  
Amended by R.1996 d.239, effective May 20, 1996.  
See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

**16:72-2.5 Amendment of Invitation for Bids**

(a) If, after issuance of an Invitation for Bids, but before the time for bid opening, it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous Invitation, such changes shall be accomplished by issuance of an amendment to the Invitation for Bids.

1. The amendment shall be sent to everyone to whom Invitations have been furnished.

2. The amendment shall be issued a reasonable time before the scheduled bid opening. If necessary the bid opening will be rescheduled at the discretion of the Contracting Officer.

(b) Any information given to a prospective bidder concerning an Invitation for Bids shall be furnished promptly to all other prospective bidders, as an amendment to the Invitation, if such information is necessary to the bidders in submitting bids on the Invitation or if the lack of such information would be prejudicial to uninformed bidders.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Amendment issuance and display requirements deleted.  
Amended by R.1996 d.239, effective May 20, 1996.  
See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

**16:72-2.6 Cancellation of Invitations before opening**

(a) Invitations for Bids should not be cancelled unless cancellation is in NJ TRANSIT'S interest, such as where there is no longer a requirement for the supplies or services or where amendments to the Invitation would be of such magnitude that a new Invitation is desirable.

(b) Where an Invitation is cancelled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom Invitations for Bids were issued.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Certain notice requirements deleted at (b).

**16:72-2.7 Time of bid submission**

Bids shall be submitted so as to be received in the office designated in the Invitation for Bids not later than the exact time set for opening of bids.

**Case Notes**

Late submission of bid, which occurred after bidder was directed by building security guard to wrong office, was not material violation of public bidding law and procedures; New Jersey Transit was entitled to waive defect. *Turner Const. Co. v. New Jersey Transit Corp.*, 296 N.J.Super. 530, 637 A.2d 323 (A.D.1997).

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(a) All bids received prior to the time of opening shall be kept secure, and, except as provided in (b) below, unopened. If an Invitation for Bids is cancelled, or if a bidder effectively withdraws his bid prior to the time set for opening of bids, all bids, or the withdrawn bid, as the case may be, shall be returned to the bidders.

(b) Unidentified bids may be opened solely for the purpose of identification and then immediately resealed. A record of this event shall be kept in the bid file.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Record requirement added at (b).

**16:72-2.9 Bid opening**

All bids shall be publicly opened and, when practicable, read aloud. An abstract of all bids shall be prepared.

**16:72-2.10 Late bids**

Bids not received prior to or at the time designated for formal bid opening shall not be considered and shall be returned to the bidder unopened.

**Case Notes**

Late submission of bid, which occurred after bidder was directed by building security guard to wrong office, was not material violation of public bidding law and procedures; New Jersey Transit was entitled to waive defect. *Turner Const. Co. v. New Jersey Transit Corp.*, 296 N.J.Super. 530, 637 A.2d 323 (A.D.1997).

**16:72-2.11 Responsive bids**

To be considered for award, a bid must comply in all material respects with the Invitation for Bids so that, both as to the method and timeliness of submission and as to the substance of any resulting contract, all bidders may stand on an equal footing and the integrity of the formal advertising system may be maintained.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Title of rule changed.

**Case Notes**

Late submission of bid, which occurred after bidder was directed by building security guard to wrong office, was not material violation of public bidding law and procedures; New Jersey Transit was entitled to waive defect. *Turner Const. Co. v. New Jersey Transit Corp.*, 296 N.J.Super. 530, 637 A.2d 323 (A.D.1997).

**16:72-2.12 Rejection of all bids**

(a) Invitations for Bids may be cancelled after opening but prior to award and all bids rejected, where NJ TRANSIT determines that:

1. Inadequate or ambiguous specifications were given in the Invitation;

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2. The supplies or services being purchased are no longer required;

3. The Invitation for Bids did not provide for consideration of all factors of cost to NJ TRANSIT;

4. Bids received indicate that the needs of NJ TRANSIT can be satisfied by a less expensive item differing from that for which bids were solicited;

5. All otherwise acceptable bids received are at unreasonable prices;

6. Bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or

7. For other reasons, cancellation is in the best interests of NJ TRANSIT.

(b) A record of the cancellation of Invitations for Bids shall be kept in the bid file.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Record requirement added at (b).

## 16:72-2.13 Rejection of individual bids

(a) Any bid which materially fails to conform to the requirements of the Invitation for Bids shall be rejected.

(b) Any bid which imposes conditions which would modify requirements of the Invitations for Bids or limit the bidder's liability to NJ TRANSIT shall be rejected.

(c) Bids received from firms determined to be not responsible shall be rejected.

(d) Where a bidder fails to furnish bid security in accordance with the material requirements of the Invitation for Bids, the bid shall be rejected.

(e) Where a bid fails to comply with all material EEO/DBE requirements expressed in an Invitation for Bids, the bid shall be rejected.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Delivery schedule requirement deleted.  
Amended by R.1996 d.239, effective May 20, 1996.  
See: 23 N.J.R. 1358(b), 23 N.J.R. 2566(b).

## 16:72-2.14 By-pass of low bidders

If the low bidder is by-passed, a memorandum stating the justification shall be prepared for the file and a letter explaining the decision shall be forwarded to the bidder.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

## 16:72-2.15 Mathematical calculations

(a) After the bids are opened and read, they shall be compared on the basis of the correctly determined summation of the correctly determined products of all the quantities for contract line items shown in the bid multiplied by the unit prices bid. The results of such comparisons shall be made available to the public. Award shall be made on the basis of the correct total contract price.

(b) In the event of a discrepancy between the unit price bid for any contract line item and the extension shown for that item under the column of the bid designated "Amount", the unit price shall govern.

1. Where a unit price is bid for a contract line item, but no extension is provided, NJ TRANSIT shall provide the extension based on the unit price bid and the estimated quantity for that contract item.

2. Where an extension is provided by the bidder in the "Amount" column, but no unit price appears in the "Unit Price" column of the bid, NJ TRANSIT shall provide the unit price by dividing the "Amount" figure provided by the bidder by the estimated quantity.

3. Where no figure is provided by the bidder in both the "Unit Price" and "Amount" columns for one or more contract line items or where no figure is provided in the "Amount" column for one or more "Lump Sum" contract line items, the bid shall be considered to be non-responsive and shall be rejected.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

## 16:72-2.16 Initialing of price changes

Price changes in bids shall be initialed by the vendor in the bid submitted to NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

## Case Notes

Failure of successful bidder for public contract with New Jersey Transit to initial cross-out for item in lump-sum bid price was minor deficiency. *Turner Const. Co. v. New Jersey Transit Corp.*, 296 N.J.Super. 530, 687 A.2d 323 (A.D.1997).

## 16:72-2.17 Waiver of minor informalities or irregularities in bids

(a) NJ TRANSIT reserves the right to waive any minor informalities or irregularities in a bid not in compliance with the specifications, terms and conditions of the Invitation for Bids.

1. A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the Invitation for Bids, having no effect on quality, quantity or delivery of the

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supplies or performance of work being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to, other bidders.

2. NJ TRANSIT may give the bidder the opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or may waive any such deficiency where it is to the advantage of NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

## Case Notes

Failure of successful bidder for public contract with New Jersey Transit to initial cross-out for item in lump-sum bid price was minor deficiency. *Turner Const. Co. v. New Jersey Transit Corp.*, 296 N.J.Super. 530, 637 A.2d 323 (A.D.1997).

## 16:72-2.18 Tie bids

(a) In the event that the correct total contract prices submitted by two or more vendors are identical, NJ TRANSIT shall award the contract based on a relative comparison of the following factors:

1. Delivery advantage, considering time, distance, convenience and facilities of vendor;
2. History of vendor's performance.

(b) When none of the distinguishable characteristics in (a) above are available, NJ TRANSIT shall, if practicable, provide for contract award by splitting the award. If splitting the award is not practicable, award will be made by a single toss of a coin.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Coin toss added to (b).

## 16:72-2.19 Bid errors

(a) While bidders normally shall be expected to be bound by their bids, circumstances exist where correction or withdrawal of bids is permitted.

1. A bidder shall not be permitted to correct a bid mistake after bid opening that would cause the bidder to have the low bid unless the mistake is clearly evident from examining the bid document, e.g., clerical errors in extensions and additions.

2. The apparent low bidder shall be permitted to correct a material mistake of fact in its bid, including price, when the intended bid is obvious from the bid document. Such bidder shall not be permitted to correct a bid for mistakes or errors in judgment.

3. In lieu of bid correction, NJ TRANSIT may permit a low bidder alleging a material mistake of fact to withdraw its bid when there is reasonable proof that a mistake was made and the intended bid cannot be ascertained with reasonable certainty. Such bidder shall not be permitted to withdraw its bid for mistakes or errors in judgment.

4. An otherwise low bidder shall not be permitted to withdraw material exceptions to the bid conditions or specifications; however, such bidder may be permitted the opportunity to furnish other information called for by the Invitation for Bids and not supplied due to oversight, so long as it does not affect responsiveness.

5. Correction of bid mistakes after bid award shall be subject to the same proof as corrections before award and after bid opening, with the further requirement that no correction shall be permitted that would cause the contract price to exceed the next low bid.

Amended by R.1996 d.239, effective May 20, 1996.  
See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

## 16:72-2.20 Award

(a) Unless all bids are rejected, award shall be made by NJ TRANSIT within the time for acceptance specified in the bid or extension thereof, to that responsible bidder whose bid, conforming to the Invitation for Bids, will be most advantageous to NJ TRANSIT, price and other factors considered, for contracts other than contracts for the construction or improvement of capital facilities.

(b) Unless all bids are rejected, award shall be made by NJ TRANSIT within the time for acceptance specified in the bid or extension thereof to the lowest responsible bidder for contracts for the construction or improvement of capital facilities. This provision shall not apply to design, build or design, build, maintain and operate projects, or affect NJ TRANSIT's minority and women business enterprise, equal employment opportunity or affirmative action programs or limit NJ TRANSIT's right to extend, add or resume work on any project.

Amended by R.2001 d.191, effective June 4, 2001.  
See: 33 N.J.R. 987(a), 33 N.J.R. 1924(b).  
Rewrote the section.

## 16:72-2.21 Procedures and forms

NJ TRANSIT shall develop such procedures, forms and directives as may be necessary to carry out these regulations.

## SUBCHAPTER 3. REQUESTS FOR PROPOSALS

## 16:72-3.1 Solicitation of proposals

Proposals for professional and technical services shall be solicited in a manner which maximizes the opportunity for competition unless otherwise provided in N.J.A.C. 16:72-1.6(c).

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Reference to section 1.6 added.

Case Notes

Procedures used to determine route operations did not violate statutes, regulations, or Transit Board policies. *Academy Bus Tours, Inc. v. New Jersey Transit Corp.*, 263 N.J.Super. 353, 622 A.2d 1335 (A.D.1993), certification denied 134 N.J. 485, 634 A.2d 531.

Adequacy of Transit Board of Directors contracting-out program. *Academy Bus Tours, Inc. v. New Jersey Transit Corp.*, 263 N.J.Super. 353, 622 A.2d 1335 (A.D.1993), certification denied 134 N.J. 485, 634 A.2d 531.

State agency must consider Board's policy before court would determine whether it complied with federal requirements. *Academy Bus Tours, Inc. v. New Jersey Transit Corp.*, 263 N.J.Super. 353, 622 A.2d 1335 (A.D.1993), certification denied 134 N.J. 485, 634 A.2d 531.

16:72-3.2 Form of proposal

Proposals shall be delivered to NJ TRANSIT in accordance with the RFP instructions.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Stylistic changes.  
Amended by R.1996 d.239, effective May 20, 1996.  
See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

16:72-3.3 Amendment of request for proposals

(a) If after issuance of a request for proposal, but before the time of receipt, it becomes necessary to make changes in scope, delivery deadline, closing dates, or any other part of the proposal or to correct a defective or ambiguous RFP, such changes shall be accomplished by issuance of an amendment of the RFP. The amendment shall be sent to everyone to whom RFPs have been furnished.

(b) Any information given to a prospective proposer concerning an RFP shall be furnished promptly to all other prospective proposers as an amendment to the RFP if such information is necessary to the proposers in submitting proposals on the RFP or if the lack of such information would be prejudicial to uninformed proposers.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Amendments include any part of proposal.  
Amended by R.1996 d.239, effective May 20, 1996.  
See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

16:72-3.4 Cancellation of requests before opening

(a) Requests for Proposals should not be cancelled unless cancellation is clearly in the public interest, such as where there is no longer a requirement for the services or where amendments to the RFP would be of such magnitude that a new RFP is desirable.

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1. Where an RFP is cancelled, proposals which have been received shall be returned unopened to the proposers and a notice of cancellation shall be sent to all prospective proposers to whom RFPs were issued. The notice of cancellation shall identify the RFP and briefly explain the reason the RFP is being cancelled.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

**16:72-3.5 Receipt and safeguarding of proposals**

(a) All proposals received prior to the time of opening shall be kept secure, and except as provided in (b) below, unopened. If an RFP is cancelled, or if a proposer effectively withdraws its proposal, all proposals, or the withdrawn proposal, as the case may be, shall be returned to the proposers.

(b) Unidentified proposals may be opened solely for the purpose of identification and then immediately resealed. A record of this event shall be kept in the RFP file.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Record requirement added to (b).

**16:72-3.6 Late proposals**

Proposals not received prior to or at the time designated for formal receipt shall not be considered. Late proposals shall be returned to the proposer unopened.

**16:72-3.7 Evaluation of proposals**

Proposals shall be opened, evaluated and ranked consistent with State and/or Federal law. General evaluation criteria shall be outlined in the RFP.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Reference to statutes added.

Amended by R.1996 d.239, effective May 20, 1996.  
See: 28 N.J.R. 1353(b), 28 N.J.R. 2566(b).

**16:72-3.8 Negotiations**

Negotiations may be conducted with proposers whose proposals are considered to be competitive in accordance with State and Federal law.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Reference to statutes added.

**16:72-3.9 Rejection of all proposals**

(a) Requests for proposals may be cancelled after opening but prior to award and all proposals rejected, where NJ TRANSIT determines in writing that:

1. Inadequate or ambiguous specifications were given in the RFP;

2. The services being purchased are no longer required;

3. The RFP did not provide for consideration of all factors of cost to NJ TRANSIT.

4. All otherwise acceptable proposals received were at unreasonable prices;

5. Proposals were not independently arrived at in open competition, were collusive, or were submitted in bad faith; or

6. For other reasons, cancellation is in the best interest of NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on consultant selection committee deleted; text on rejection of all proposals recodified from section 3.10.

**16:72-3.10 Rejection of individual proposals**

(a) Any proposal which materially fails to conform to the requirements of the RFP's shall be rejected.

(b) Proposals received from firms determined to be not responsible shall be rejected.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on rejection of all proposals recodified to section 3.9; text on rejection of individual proposals recodified from section 3.11.

**16:72-3.11 Debriefing**

Upon written request, unsuccessful offerors shall be informed in general terms, through a debriefing, only of reasons for non-acceptance of their proposals without disclosing other offerors' proprietary data.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on rejection of individual proposals recodified to section 3.10; text on debriefing recodified from section 3.12.

**16:72-3.12 Award**

Unless all proposals are rejected, award shall be made to that responsible proposer whose proposal, conforming to the Request for Proposals, will be most advantageous to NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on debriefing recodified to section 3.11; text on award recodified from section 3.13.

**16:72-3.13 Procedures and forms**

NJ TRANSIT shall develop such procedures, forms and directives as may be necessary to carry out these regulations.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on award recodified to section 3.12; text on procedures and forms recodified from section 3.14.

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16:72-3.14 (Reserved)

Recodified by R.1990 c.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Recodified to section 3.13.

#### SUBCHAPTER 4. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF PERSONS

##### 16:72-4.1 Causes for debarment of a person(s)

(a) In the public interest, NJ TRANSIT shall debar a person 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 of 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, 40 U.S.C. 276b, c);
4. Violations of any of the laws governing the conduct of elections of the Federal government, State of New Jersey or of its political subdivisions;
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 (P.L. 1942, c.114, 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, or child labor;
7. Violations of any laws governing the conduct of occupations or professions or regulated industries;
8. Violations of any other laws which may bear upon a lack of responsibility or moral integrity;
9. Willful failure to perform in accordance with contract specifications or within contractual time limits;
10. A record of failure to perform or of 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;

11. Violation of contractual or statutory provisions regulating contingent fees;

12. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by NJ TRANSIT to warrant debarment, including such conduct as may be proscribed by the laws or contracts enumerated in this paragraph even if such conduct has not been or may not be prosecuted as violations of such laws or contracts;

13. Debarment by some other department or agency in the executive branch.

14. Any offer or agreement by a vendor to pay or to make payment of, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State office or employee or special State officer or employee as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury 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 by N.J.S.A. 52:13D-13i, 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 of N.J.S.A. 52:13D-13g;

15. Failure by a vendor to report to the Attorney General and to the Executive Commission on Ethical Standards in writing forthwith the solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee;

16. The undertaking, directly or indirectly, of any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sale, directly or indirectly of any interest in such vendor to, any State officer or employee or special State officer or employee or special State 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 is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationship subject to this provision shall be reported in writing forthwith to the executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State 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;

17. Influence or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

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18. Cause or influence or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the vendor or any other person.

(b) The provisions set forth in N.J.A.C. 16:72-4.1(a)14 through 18 above shall be included in all Invitations for Bids and RFPs issued by or on behalf of NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.  
Sec: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Conflict of interest requirements added at (a)14-18 and (b).

**16:72-4.2 Conditions affecting the debarment of a person(s)**

(a) The following conditions shall apply concerning debarment:

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

2. The existence of any of the causes set forth in N.J.A.C. 16:72-4.1 shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Executive Director, unless otherwise required by law, and shall be rendered in the best interests of the State.

3. All mitigating factors shall be considered in determining 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 in N.J.A.C. 16:72-4.1(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 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 in N.J.A.C. 16:72-4.1(a)9 through 18 shall be established by evidence which NJ TRANSIT determines to be clear and convincing in nature.

6. Debarment for the cause set forth in N.J.A.C. 16:72-4.1(a)13 shall be proper, provided that one of the causes set forth in N.J.A.C. 16:72-4.1(a)1 through 18 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.539, effective January 7, 1991.

Sec: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Citations corrected.

**16:72-4.3 Procedures, period of debarment, and scope**

(a) The procedures, the period of debarment, and the scope of debarment to be followed by NJ TRANSIT are explained below:

1. NJ TRANSIT, when seeking to debar a person or his affiliates shall furnish such party with a written notice stating that debarment is being considered, setting forth the reasons for the proposed debarment, and indicating that such party will be afforded an opportunity for a hearing if he so requests within a stated period of time. All such hearings shall be conducted in accordance with the provisions of the Administrative Procedures Act. However, where another department or agency has imposed debarment upon a party, NJ TRANSIT may also impose a similar debarment without affording an opportunity for a hearing, provided that NJ TRANSIT furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in its behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

2. Debarment shall be for a reasonable, definitely stated period of time, which as a general rule shall not exceed five years. 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 its behalf to explain why the additional period of debarment should not be imposed.

3. Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced in the discretion of NJ TRANSIT 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 causes for which the debarment was imposed.

4. 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 giving due regard to all relevant facts and circumstances. The offense, failure 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 affected by him with the knowledge or approval of such person.

**16:72-4.4 Causes for suspension of a person(s)**

In the public interest, NJ TRANSIT shall suspend a person for any cause specified in N.J.A.C. 16:72-4.1 or upon reasonable suspicion that such cause exists.

**16:72-4.5 Conditions for suspension of a person(s)**

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

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1. Suspension shall be imposed only upon approval of the Executive Director and upon approval of the Attorney General, except as otherwise provided by law.

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 Executive Director and of the Attorney General, and shall be rendered in the best interest of the State.

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.

4. In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, and to inferences which may properly be drawn from the existence or absence of affirmative facts.

5. Reasonable suspicion of the existence of a cause described in N.J.A.C. 16:72-4.1(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.

6. A suspension invoked by another agency for any of the causes described in N.J.A.C. 16:72-4.1 may be the basis for the imposition of a concurrent suspension by NJ TRANSIT which may impose such suspension without the approval of the Attorney General.

**16:72-4.6 Procedures, period of suspension and scope of suspension affecting the suspension of a person(s)**

(a) The following provisions regarding procedures, period of suspension and scope of suspension shall be adhered to by NJ TRANSIT.

1. NJ TRANSIT may suspend a person or his affiliates, provided that within 10 days after the effective date of the suspension, NJ TRANSIT provides such party with a written notice stating that a suspension has been imposed and its effective date; setting forth the reasons for the suspension to the extent that the Attorney General determines that such reasons may be properly disclosed; stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue; and indicating that, if such legal proceedings are not commenced or the suspension removed within 60 days of the date of such notice, the party will be given either a statement of the reasons for the suspension and an opportunity for an informal hearing if he so requests, or a statement declining to give such reasons and setting forth NJ TRANSIT's position regarding the continuation of the suspension. Where a suspension by another agency has been the basis for suspension by NJ TRANSIT, the latter shall note that fact as a reason for its suspension.

2. A suspension 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 debarment action has been commenced. Whenever prosecution of debarment action has been initiated, the suspension may continue until the legal proceedings are completed.

3. 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. The offense, failure 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 effectuated by him with the knowledge or approval of such person.

Amended by R.1990 d.539, effective January 7, 1991.  
See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).  
Stylistic changes.

**16:72-4.7 Disqualification of a person(s)**

The disqualification of a person shall conform to N.J.S.A. 27:25-1 et seq. and N.J.A.C. 16:72-1.1 et seq.

**16:72-4.8 Extent of debarment, suspension or disqualification**

The exclusion from NJ TRANSIT contracting by virtue of debarment, suspension, or disqualification shall extend to all contracting and subcontracting within the control or jurisdiction of NJ TRANSIT, including any contracts which utilize State funds. When it is determined by the Executive Director to be essential to the public interest, and upon filing of a finding thereof with the Attorney General, an exception from total exclusion may be made with respect to a particular NJ TRANSIT contract.

**16:72-4.9 Prior notice by NJ TRANSIT**

Insofar as practicable, prior notice of any proposed debarment or suspension shall be given to the Attorney General and the State Treasurer.

**16:72-4.10 List of debarred, suspended, or disqualified persons**

NJ TRANSIT shall supply to the State Treasurer a list of all persons having been debarred, suspended, or disqualified in accordance with the procedures prescribed herein. Such list shall at all times be available for public inspection.

**16:72-4.11 Discretion**

Nothing contained herein shall be construed to limit the authority of NJ TRANSIT to refrain from contracting within the discretion allowed by law.

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## APPENDIX A

(see N.J.A.C. 13:85-1.3(b)1)  
New Jersey Motorcycle Safety Education Course  
Basic Skills Level Course-MRC:RSS

## APPENDIX B

(see N.J.A.C. 13:85-1.3(b)1[2])  
New Jersey Motorcycle Safety Education Course  
Experienced Level Course-MRC:ERC

## (a)

**NEW JERSEY TRANSIT CORPORATION**  
**New Jersey Transit Procurement Policies and**  
**Procedures**  
**Proposed Readoption with Amendments: N.J.A.C.**  
**16:72**

Authorized By: New Jersey Transit Corporation, George D.  
Warrington, Executive Director.  
Authority: N.J.S.A. 27:25-5(e), 27:25-11, and 2A:44-143; 49 U.S.C.  
§§ 5301 et seq.; and 49 CFR Part 18.  
Calendar Reference: See Summary below for explanation of  
exception to calendar requirement.  
Proposal Number: PRN 2005-455.  
Submit comments by February 17, 2006 to:  
Joyce I. Zuczek  
New Jersey Transit Corporation  
One Penn Plaza East  
Newark, NJ 07105-2246

The agency proposal follows:

## Summary

In accordance with the sunset provisions of Executive Order No. 66(1978), NJ TRANSIT has evaluated the rules at N.J.A.C. 16:72, Procurement Policies and Procedures, scheduled to expire on November 10, 2006, pursuant to N.J.S.A. 52:14B-5.1c, and has determined that they are necessary, adequate, reasonable, efficient, understandable and responsive to the purposes for which they were originally promulgated, with the exception of a few minor amendments.

N.J.A.C. 16:72 contains the requirements governing the procurement by NJ TRANSIT of goods and services, as well as the debarment, suspension and disqualification of persons from doing business with NJ TRANSIT. With certain exceptions, the rules require all purchases, whether made as a result of formal advertising, or otherwise, to be made on a competitive basis, to the maximum practicable extent, and implement the procurement requirements set forth in N.J.S.A. 27:25-1 et seq.

A summative review of each of the subchapters follows:

Subchapter 1, General Provisions, describes the general provisions, applicable to all procurements, including the method of procurement and the means by which the public may secure information about the bidding process conducted by NJ TRANSIT.

Subchapter 2, Bidding Procedures, describes the bidding procedures of NJ TRANSIT.

Subchapter 3, Requests for Proposals, describes the procedure to be used in the request for proposal process.

Subchapter 4, Debarment, Suspension and Disqualification of Persons, describes the process for debarment, suspension and disqualification.

The rules proposed for re-adoption at N.J.A.C. 16:72 are proposed for amendment as follows:

N.J.A.C. 16:72-1.1 has been amended to add a website address as a source for public information.

The definition of "debarment" in N.J.A.C. 16:72-1.2 has been amended to delete commas to clarify the meaning of the sentence.

N.J.A.C. 16:72-1.4(a) has been amended to change "procurement" to the plural form.

N.J.A.C. 16:72-1.4(a)1 has been amended to add a comma for grammatical clarification.

N.J.A.C. 16:72-1.5(b)3 has been amended to change the range maximum from \$25,000 to "the amount determined in [N.J.A.C. 16:72-1.5](a) above." This change accommodates changes to the bidding threshold made by the Governor of New Jersey in accordance with N.J.S.A. 52:34-7.

N.J.A.C. 16:72-1.5(d), providing for a waiver of the requirements of subsection (a), (b) and (c) in specified circumstances, has been amended to add "and the purchase or contract made in such manner as the Executive Director, or his or her designee, may determine is in the best interest of NJ TRANSIT."

N.J.A.C. 16:72-2.2 has been amended to delete "(proposal)" between "bid" and "bond" and make the first sentence into two sentences.

The first sentence in N.J.A.C. 16:72-2.3(e) has been amended to add "or" between "labor" and "materials" for clarification purposes.

N.J.A.C. 16:72-2.5(a) has been amended to provide a grammatical correction.

N.J.A.C. 16:72-2.13(e) has been amended to clarify that the acronyms "EEO" and "DBE" stand for "Equal Employment Opportunity" and "Disadvantaged Business Enterprise," and to add failure to comply with the "Small Business Enterprise (SBE)" requirements to the reasons why bids will be rejected.

N.J.A.C. 16:72-3.1 has been amended to correct the reference to N.J.A.C. 16:72-1.5(c), the subsection requiring a request for proposal.

N.J.A.C. 16:72-3.4(a) has been amended to change "clearly" in "the public interest" to "in NJ TRANSIT's interest" so that the first sentence of the subsection states, "Requests for Proposals should not be cancelled unless cancellation is in NJ TRANSIT's interest, such as where there is no longer a requirement for the services or where amendments to the RFP would be of such magnitude that a new RFP is desirable."

N.J.A.C. 16:72-3.7 has been amended to add "established by NJ TRANSIT" to clarify that NJ TRANSIT will establish the general evaluation criteria for proposals.

N.J.A.C. 16:72-3.12 has been amended to delete "will be most advantageous to" after "proposal" and replace it with "is in the best interest of" NJ TRANSIT.

N.J.A.C. 16:72-4.1(a)13 has been amended to grammatically correct the paragraph by deleting a period and replacing it with a semicolon.

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

## Social Impact

The rules proposed for re-adoption with amendments at N.J.A.C. 16:72 will continue to affect NJ TRANSIT's ability to provide Statewide transit services to the public on a daily basis and to continue NJ TRANSIT's capital improvement program, resulting in a better quality of services to the public and the improvement and maintenance of the infrastructure for the public's use in the future. The procedures delineated in the rules provide protection of the interests of the general public and of the individual bidders. The proposed amendments ensure that the rules comply with existing legislation and programs that promote small business participation in NJ TRANSIT procurements.

## Economic Impact

NJ TRANSIT has expended \$829.7 million in calendar year 2002, \$748.4 million in calendar year 2003 and \$736.2 million in calendar year 2004, in the procurement of goods and services for the maintenance and capital improvement of the NJ TRANSIT system. The continued utilization of a competitive bidding system can be expected to provide economies to the State which are not available without such a system. Bonding is required of certain bidders, based upon the specific contract. The costs of preparing a bid or proposal would vary, depending upon the specifications of the individual request for proposals.

The proposed amendments ensure the rules comply with legislation and programs that promote small business participation in procurements.

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Specifically, the proposed amendments update the bidding threshold to comply with N.J.S.A. 52:34-7 and add non-compliance with the material requirements of the New Jersey Small Business Enterprise program as a ground for bid rejection. By complying with the requirements of the Small Business Enterprise program, bidders are more likely to have small businesses as subcontractors.

**Federal Standards Statement**

A Federal standards analysis is not required because the requirements of this rulemaking are governed by N.J.S.A. 27:25-11 and are not subject to any Federal procurement regulations or standards.

**Jobs Impact**

The rules proposed for readoption with amendments will not result in the creation or loss of jobs.

**Agriculture Impact Statement**

The rules proposed for readoption with amendments have no impact on the agriculture industry.

**Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments apply to all entities wishing to do business with NJ TRANSIT, some of which may be small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules require that bids be submitted in a specified manner, accompanied by bonds in certain cases, and that debarment occur in specified situations. Provisions in the rules allow for amendment and negotiation of bids, but no differential treatment has been specifically provided for small businesses. The rules provide for equal treatment of businesses in the bidding process, whether large or small, in the interest of high quality goods and services and fairness to all bidders. The professional services required to complete the bidding process are those services ordinarily required for the completion of any capital project, for example, attorney, accounting, engineering and design services. Other professional services would vary, depending upon the specifications of the individual request for proposals. The costs of professional services will vary, depending upon the specifications of the individual request for proposals. The costs of complying with the rules are discussed in the Economic Impact, above. The proposed amendments do not impose any reporting, recordkeeping or compliance requirements on small businesses.

**Smart Growth Impact**

The rules proposed for readoption with amendments have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:72.

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

**16:72-1.1 Source for public information**

The public may receive information concerning NJ TRANSIT's procurement program by contacting the Procurement Department, NJ TRANSIT, One Penn Plaza East, Newark, New Jersey 07105-2246 or [www.njtransit.com/eb\\_pr.shtml](http://www.njtransit.com/eb_pr.shtml).

**16:72-1.2 Definitions**

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

...  
 "Debarment" means an exclusion from NJ TRANSIT contracting, on the basis of a lack of responsibility evidenced by an offense, failure[,] or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure[,] or inadequacy of performance.  
 ...

**16:72-1.4 Responsible contractors**

(a) Procurements shall be made from, and contracts shall be awarded to, responsible contractors only. A responsible contractor is one who meets the following standards:

1. Has adequate financial resources, or the presently certifiable ability to obtain such resources, as required during the performance of the contract, if adequate security is not otherwise furnished;

2.-7. (No change.)

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

**16:72-1.5 Methods of procurement**

(a) (No change.)

(b) Quotation: Except as provided in (c) and (d) below, purchases or contracts not in excess of the amount determined pursuant to Section 2 of P.L. 1954, c.48 (N.J.S.A. 52:34-7) shall be made:

1.-2. (No change.)

3. For purchases from \$15,001 up to [\$25,000] the amount determined in (a) above - minimum of two written quotes.

(c) (No change.)

(d) Procurement-by-exception: The requirements of (a), (b) and (c) above may be waived under the following circumstances and the purchase or contract made in such manner as the Executive Director, or his or her designee, may determine is in the best interest of NJ TRANSIT:

1.-14. (No change.)

(e)-(f) (No change.)

**16:72-2.2 Bids bonds**

A bid [(proposal)] bond or a deposit consisting of a cashier's check, certified check or irrevocable letter of credit drawn to the order of NJ TRANSIT in an amount to be determined by NJ TRANSIT, but not exceeding 50 percent of the bid, shall accompany all bids to serve as a guarantee that the bidder will, upon acceptance of its bid, execute such contractual documents as may be required within 10 working days after issuance of a notice of intent to award. [any] Any bonds submitted pursuant to this section must be executed by surety companies licensed to do business in the State of New Jersey. Any letters of credit shall be issued by Federally insured financial institutions.

**16:72-2.3 Performance and payment bonds**

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

(c) In accordance with N.J.S.A. 2A:44-143 as amended, a payment bond not to exceed 100 percent of the contract price shall be required of the successful bidder when a contract for public buildings, or other public works or improvements is awarded to protect firms or persons supplying labor or materials to the contractor/subcontractor for the performance of work provided for in the contract. The bond percentage required, based upon NJ TRANSIT's assessment of the risks presented to the State by the type of contract and other relevant factors, shall be identified in the bid documents prior to the contract bidding date. NJ TRANSIT may waive the bond requirement entirely if the contract is for a sum not exceeding \$200,000. In determining whether to waive the bond requirement, NJ TRANSIT shall consider the following:

1.-3. (No change.)

(d)-(e) (No change.)

**16:72-2.6 Cancellation of Invitations before opening**

(a) Invitations for Bids should not be cancelled unless cancellation is in NJ TRANSIT[S]s interest, such as where there is no longer a requirement for the supplies or services or where amendments to the Invitation would be of such magnitude that a new Invitation is desirable.

(b) (No change.)

**16:72-2.13 Rejection of individual bids**

(a)-(d) (No change.)

(e) Where a bid fails to comply with all material [EEO/DBE] Equal Employment Opportunity (EEO), Disadvantaged Business Enterprise (DBE), and Small Business Enterprise (SBE) requirements expressed in an Invitation for Bids, the bid shall be rejected.

**16:72-3.1 Solicitation of proposals**

Proposals for professional and technical services shall be solicited in a manner which maximizes the opportunity for competition unless otherwise provided in N.J.A.C. 16:72-[1.6(c)] 1.5(c).

TRANSPORTATION

16:72-3.4 Cancellation of requests before opening  
(a) Requests for Proposals should not be cancelled unless cancellation is [clearly] in [the public] NJ TRANSIT's interest, such as where there is no longer a requirement for the services or where amendments to the RFP would be of such magnitude that a new RFP is desirable.  
1. (No change.)

16:72-3.7 Evaluation of proposals  
Proposals shall be opened, evaluated and ranked consistent with State and/or Federal law. General evaluation criteria established by NJ TRANSIT shall be outlined in the RFP.

16:72-3.12 Award  
Unless all proposals are rejected, award shall be made to that responsible proposer whose proposal, conforming to the Request for Proposals, [will be most advantageous to] is in the best interest of NJ TRANSIT.

16:72-4.1 Causes for debarment of a person(s)  
(a) In the public interest, NJ TRANSIT shall debar a person for any of the following causes:  
1.-12. (No change.)  
13. Debarment by some other department or agency in the executive branch[.];  
14.-18. (No change.)  
(b) (No change.)

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Gaming Equipment  
Removal of Slot Drop Buckets and Slot Drop Boxes  
Proposed Amendment: N.J.A.C. 19:45-1.42

Authorized By: Casino Control Commission, Linda M. Kassekert, Chair.

Authority: N.J.S.A. 5:12-5, 63, 69, 70, 99 and 100.

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

Proposal Number: PRN 2005-447.

Submit written comments by February 17, 2006 to:

Seth H. Brilliant, Senior Counsel  
Casino Control Commission  
Arcade Building  
Tennessee Avenue and the Boardwalk  
Atlantic City, N.J. 08401

The agency proposal follows:

Summary

Commission regulations presently require the removal of all coins and slot tokens (a "coin drop") from slot machines at least once every seven days. See N.J.A.C. 19:45-1.42(a). The frequency of the coin drop may be decreased to no less than once a month for slot machines connected to an approved gaming voucher system, provided that the casino licensee submits weekly estimated gross revenue reports in the interim and pays the estimated taxes thereon.

The gaming industry's increased use of gaming vouchers has significantly minimized the use of coins and slot tokens in slot machines. As a result, the proposed amendments would further decrease the frequency of mandatory coin drops to no less than once every two months for slot machines connected to an approved gaming voucher system. Casino licensees could always conduct coin drops more frequently, if that becomes necessary or desired.

Decreasing the frequency of coin drops should not affect a casino licensee's gross revenue calculations or the State's eight percent tax thereon. For each week in which an actual slot drop does not occur, a casino licensee would be required to file weekly estimates of its gross

revenue and pay the estimated tax thereon. See N.J.A.C. 19:54-1.5(c)1 and 1.7.

This notice of proposal is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments should not have any social impact because they would simply reduce the frequency of a procedure that does not involve the general public.

Economic Impact

By reducing the frequency of mandatory coin drops and providing a casino licensee with additional flexibility for conducting coin drops, the proposed amendments may provide some cost savings additional efficiency for casino licensees. Since a casino licensee which does not conduct weekly coin drops is still required to estimate its gross revenue and pay the estimated tax thereon weekly, the reduction in coin drops would not reduce the amount or frequency of its tax payments. Finally, since a coin drop requires all slot machines in the immediate area to be temporarily placed out of service, less frequent coin drops would also result in less down time for the slot machines in question.

Federal Standards Statement

A Federal standards analysis is not required because the amendments contained in this proposal are mandated by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to any Federal requirements or standards.

Jobs Impact

The proposed amendments are not expected to result in any increase or decrease in the number of jobs at Atlantic City casinos, and no impact upon any other sector of the economy is anticipated.

Agriculture Industry Impact

The proposed amendments will not have any impact upon the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments would affect casino licensees, none of which is a "small business" within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because they employ more than 100 persons full-time in the State of New Jersey. Accordingly, no regulatory flexibility statement is required.

Smart Growth Impact

The proposed amendments would have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets (thus)):

19:45-1.42 Removal of slot drop buckets, slot drop boxes and slot cash storage boxes; unsecured currency; meter readings

(a) For each slot machine and attached bill changer on the gaming floor, the slot drop bucket, slot drop box and slot cash storage box shall be removed at least once a week on specified days and at times designated by the casino licensee on a schedule which shall be filed with the Commission and the Division. However, a casino licensee may, with prior Commission approval, establish a less frequent schedule for the removal of slot drop buckets and slot drop boxes from those slot machines connected to an approved gaming voucher system, provided that a weekly slot drop estimate is reported in accordance with N.J.A.C. 19:54-1.5(c)1; in no event shall such slot drops occur less than once [per month] every two months. In the case of slot cash storage boxes, the schedule shall include the total number of slot cash storage boxes to be removed on a particular day in total and by zone. No slot drop bucket, slot drop box or slot cash storage box shall be emptied or removed from its compartment at other than the times specified on such schedule except with the express approval of the Commission. Prior to the start of the scheduled slot cash storage box collection process, a casino key employee who shall be referred to herein as a drop team supervisor shall perform a physical count of the slot cash storage boxes removed from storage to

EXHIBIT C

**REGULATIONS: READOPTION WITH AMENDMENTS OF  
N.J.A.C. 16:72 PROCUREMENT POLICIES AND PROCEDURES  
PROPOSED AMENDMENTS**

The rules proposed for readoption at N.J.A.C. 16:72 are proposed for amendment as follows:

N.J.A.C. 16:72-1.1 has been amended to add a website address as a source for public information.

The definition of "debarment" in N.J.A.C. 16:72-1.2 has been amended to delete commas to clarify the meaning of the sentence.

N.J.A.C. 16:72-1.4(a) has been amended to change "procurement" to the plural form.

N.J.A.C. 16:72-1.4(a)(1) has been amended to add a comma for grammatical clarification.

N.J.A.C. 16:72-1.5(b)(3) has been amended to change the range maximum from \$25,000 to "the amount determined in [N.J.A.C. 16:72-1.5](a) above." This change accommodates changes to the bidding threshold made by the Governor of New Jersey in accordance with N.J.S.A. 52:34-7.

N.J.A.C. 16:72-1.5(d), providing for a waiver of the requirements of subsection (a), (b) and (c) in specified circumstances, has been amended to add "and the purchase or contract made in such manner as the Executive Director, or his or her designee, may determine is in the best interest of NJ TRANSIT."

N.J.A.C. 16:72-2.2 has been amended to delete "(proposal)" between "bid" and "bond" and make the first sentence into two sentences.

The first sentence in N.J.A.C. 16:72-2.3(c) has been amended to add "or" between "labor" and "materials" for clarification purposes.

N.J.A.C. 16:72-2.6(a) has been amended to provide a grammatical correction.

N.J.A.C. 16:72-2.13(e) has been amended to clarify that the acronyms "EEO" and "DBE" stand for "Equal Employment Opportunity" and "Disadvantaged Business Enterprise," and to add failure to comply with the "Small Business Enterprise (SBE)" requirements to the reasons why bids will be rejected.

N.J.A.C. 16:72-3.1 has been amended to correct the reference to N.J.A.C. 16:72-1.5(c), the subsection requiring a request for proposal.

N.J.A.C. 16:72-3.4(a) has been amended to change "clearly" in "the public interest" to "in NJ TRANSIT's interest" so that the first sentence of the subsection states, "Requests

EXHIBIT C

for Proposals should not be cancelled unless cancellation is in NJ TRANSIT's interest, such as where there is no longer a requirement for the services or where amendments to the RFP would be of such magnitude that a new RFP is desirable."

N.J.A.C. 16:72-3.7 has been amended to add "established by NJ TRANSIT" to clarify that NJ TRANSIT will establish the general evaluation criteria for proposals.

N.J.A.C. 16:72-3.12 has been amended to delete "will be most advantageous to" after "proposal" and replace it with "is in the best interest of" NJ TRANSIT.

N.J.A.C. 16:72-4.1(a)(13) has been amended to grammatically correct the paragraph by deleting a period and replacing it with a semicolon.