

SUBTITLE E. NEW JERSEY TURNPIKE AUTHORITY

CHAPTER 9

NEW JERSEY TURNPIKE AUTHORITY

Authority

N.J.S.A. 27:23-1, 27:23-5(e), 27:23-5(h),
27:23-5(o), 27:23-9 and 27:23-29.

Source and Effective Date

R.1998 d.492, effective September 11, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Executive Order No. 66(1978) Expiration Date

Chapter 9, New Jersey Turnpike Authority, expires on September 11, 2003.

Chapter Historical Note

Chapter 9, New Jersey Turnpike Authority, was filed and became effective December 3, 1963.

Subchapter 9 was adopted as R.1973 d.173, effective June 29, 1973.
See: 5 N.J.R. 205(b), 5 N.J.R. 295(b).

Pursuant to Executive Order 66(1978), Chapter 9, New Jersey Turnpike Authority, was readopted as R.1983 d.301, effective July 13, 1983.
See: 15 N.J.R. 886(a), 15 N.J.R. 1257(a). Subchapter 9 was repealed and adopted as new rules by R.1983 d.556, effective December 5, 1983.
See: 15 N.J.R. 1639(a), 15 N.J.R. 2046(d). Pursuant to Executive Order 66(1978), Chapter 9 expired on July 13, 1988.

Chapter 9, New Jersey Turnpike Authority, was adopted as new rules by R.1988 d.483, effective October 17, 1988. See: 20 N.J.R. 1338(a), 20 N.J.R. 2591(a).

Subchapter 7 was adopted as R.1989 d.444, effective July 24, 1989.
See: 21 N.J.R. 2528(b).

Subchapter 6 was adopted as R.1989 d.580, effective November 20, 1989. See: 21 N.J.R. 2440(a), 21 N.J.R. 3675(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, New Jersey Turnpike Authority, was readopted as R.1993 d.496, effective September 13, 1993. See: 25 N.J.R. 2839(b), 25 N.J.R. 3685(a), 25 N.J.R. 4605(a). Administrative Correction. See: 25 N.J.R. 4927(c).

Pursuant to Executive Order No. 66(1978), Chapter 9, New Jersey Turnpike Authority, was readopted as R.1998 d.492, effective September 11, 1998, and Subchapter 8, Debarment, Suspension and Disqualification from Contracting, was adopted by R.1998 d.492, effective October 5, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. TRAFFIC CONTROL ON NEW JERSEY TURNPIKE

19:9-1.1 Definitions

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

“Abandoned vehicles” means any vehicle whose occupants leave the vehicle unattended on the Turnpike for any reason for any period of time.

“Authority” means the New Jersey Turnpike Authority, the body corporate and politic defined in N.J.S.A. 27:23-1 et seq., acting by and through the duly appointed commissioners thereof and their designees.

“Bicycle” means any vehicle with two wheels supported by a frame propelled by the feet acting upon pedals.

“Commercial vehicles” means every type of motor driven vehicle used for commercial purposes on the Turnpike such as the transportation of goods, wares and merchandise, excepting such vehicle of the passenger car type.

“Construction equipment” means all vehicles, machinery and equipment enumerated in N.J.S.A. 39:3-20.

“Gross combination weight rating (G.C.W.R.)” means the value specified by the manufacturer as the loaded weight of a combination vehicle.

“Gross vehicle weight rating (G.V.W.R.)” means the value specified by the manufacturer as the loaded weight of a single vehicle.

“Gross weight” means the combined weight of a vehicle and any load thereon.

“Interstate 95 Extension” means that portion of Interstate Highway 95 previously maintained by the New Jersey Department of Transportation and transferred to the Authority by N.J.S.A. 27:23-23.7, beginning at milepost 117.9+ and thence in a general northerly direction to milepost 122.0+, and all bridges, tunnels, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings which the Authority may deem necessary for the operation of such extension, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such extension and all other property within the Interstate 95 Extension right-of-way.

“Motorcycles” means all motor operated vehicles of the bicycle or tricycle type, whether the motor power being a part thereof or attached thereto and having a saddle or seat with driver seat astride or upon it.

“Motor trucks” means every motor vehicle designed, used or maintained primarily for the transportation of property, which property is not affixed to or a necessary part of the design or construction of the vehicle itself.

“Official traffic control devices” means only those signs, signals, markings and devices approved and accepted by the Authority and placed, erected or caused to be placed or erected by the Authority for the purpose of regulating, warning or guiding traffic on the Turnpike.

“Omnibus” means any motor vehicle capable of transporting 10 or more passengers and registered as a bus, as indicated by the letter “O” preceding the registration number or the word “Bus” or “Omnibus” on the vehicle’s license plate. Vehicles with the letters “CV” or the word “Livery” or “Autocab” on the license plate are excluded from this definition.

“Passenger vehicles” means all automobiles used and designed for the transportation of passengers other than omnibuses and school buses, irrespective of whether the vehicle has commercial or noncommercial registration license plates.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
Amended by R.1998 d.520, effective November 2, 1998.
See: 30 N.J.R. 2368(a), 30 N.J.R. 3971(a).
Rewrote the section.

19:9-1.21 Other regulations

In addition to these traffic rules, users of the Turnpike are subject to all applicable statutory provisions, including, but not limited to, penalties for nonpayment of tolls (N.J.S.A. 27:23-25), penalties for violation of any of the Authority's regulations (N.J.S.A. 27:23-32), United States Department of Transportation regulations, and, except as otherwise provided hereinabove, the Motor Vehicle and Traffic Acts of New Jersey relating to lights, brakes, weights, registration and other matters (N.J.S.A. 39:3-1 et seq. and 39:4-1 et seq.). Commercial vehicles in interstate com-

merce using the Turnpike remain subject to Interstate Commerce Commission regulations.

New Rule, R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-1.22 Filming, photographing or videotaping on the Turnpike prohibited, except as authorized

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

(b) Notwithstanding (a) above, persons shall be permitted to take film in those portions of the service areas of the Turnpike under the Authority's control which are not used for the moving, servicing or parking of vehicles, provided the taking of such film does not interfere with or obstruct the movement or flow of vehicles and people lawfully on the Turnpike. Such interference or obstruction includes, without limitation, the taking of such film within 100 feet of any ramp or traveled roadway portion of the Turnpike. Persons wishing to engage in professional or commercial filming in the above described areas shall provide the Authority with at least 48 hours prior notice. Persons wishing to take film in those portions of the Turnpike which are not under the control of the Authority, such as the buildings in the service areas which are under lease, shall contact the appropriate party for approval.

(c) The Authority, through its Department of Communications or successor department, may grant a permit to take film on the portions of the Turnpike not specified in (b) above, provided the person(s) requesting such permit submits the following:

1. A written application to the Authority, at least two weeks prior to the date of the filming, stating the date, time and location of the filming, names and addresses of the applicants, the number of individuals and vehicles to be present at the filming, the purpose of such filming and any other information the Authority may deem necessary in order for it to make a determination that such filming can be conducted without a risk to the safety, traffic security or movement of the Turnpike;
2. Certificates of liability insurance (indicating the New Jersey Turnpike Authority as an insured under the policy) in an amount deemed by the Authority to be acceptable given the nature and scope of the filming;
3. A copy of the motor vehicle insurance policy for each vehicle to be used in the filming; and
4. An indemnification and hold harmless agreement signed by all persons responsible for the filming, in a form provided by or acceptable to the Authority.

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

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

(f) In the event that a bona fide representative of the news media requires immediate permission to film an emergency situation on a portion of the Turnpike not specified in

(b) above, the Authority shall grant a permit to film over the telephone to the news media representative, provided:

1. The applicant has previously obtained a valid press pass from the Authority;
2. The Authority has determined that such filming would not create an unreasonable risk to the safety, traffic security or movement of the Turnpike; and
3. The applicant agrees to abide by certain time, place and manner restrictions on the filming which may be imposed by the Authority or the State Police to ensure the safety, traffic security or movement of the Turnpike.

New Rule, R.1997 d.82, effective February 18, 1997.
See: 28 N.J.R. 2518(a), 28 N.J.R. 3242(a), 29 N.J.R. 587(a).

19:9-1.23 Distribution of literature

(a) Literature other than commercial or advertising literature may be distributed at service areas of the Turnpike, which for purposes of this section shall include Park-n-Ride facilities, at the times and places and in accordance with the terms and conditions enumerated in (b) through (l) below.

(b) A person, persons or organization who desires to distribute literature or conduct a survey at or about a service area shall first file an application for a Certification of Registration. Applicants shall complete the application form (providing identification and distribution specifics) and a waiver and indemnity form supplied by the Authority. Applicants shall also submit a certificate of liability insurance and workers compensation and/or auto insurance, if applicable, in an amount deemed necessary by the Authority, based on the circumstances surrounding the proposed distribution of literature project. Certificates will be issued without charge on a first-come, first serve basis, subject to availability and limitations of space. Certificates shall be issued for not more than one calendar day. Applications may be obtained and submitted and Certificates obtained in person, by mail or by facsimile on weekdays between 9:00 A.M. and 5:00 P.M. from the Manager of Patron Services, New Jersey Turnpike Authority, Administration Building, New Brunswick, New Jersey 08903, (732) 247-0900.

(c) Certificate holders shall distribute literature only at the locations indicated in the Certificate, which locations shall be determined by the Turnpike in order to minimize inconvenience to Turnpike patrons and to ensure patron safety. No more than two persons shall distribute literature during the same period at the same service area.

(d) Certificate holders shall at no time shout, make outcries, use devices for voice or sound amplification or any other instruments or devices for sound production.

(e) Placards or any other literature or material shall not be affixed to any portion of the building or any other structure.

(f) No certificate holder shall use a table or other device unless the Certificate expressly provides for its use in the designated expressive area.

(g) Certificate holders shall not leave material unattended and shall remove the same when the distribution or permissive period ends, whichever occurs earlier. Certificate holders shall at all times keep the area in a reasonably clean, neat and uncluttered condition and shall, when leaving, make certain that the literature has been removed and cleared from the service area.

(h) Certificate holders shall not disrupt or obstruct passage to or from the service buildings or parking areas, nor shall they act in a boisterous and disturbing manner to the traveling public.

(i) If a Certificate holder violates any of the regulations set forth at N.J.A.C. 19:9-1.23, the Authority shall notify the violator to stop the wrongful conduct, correct that condition or leave the area. If the violator does not stop, correct, or leave as ordered, the violator shall be deemed guilty of being a disorderly person pursuant to N.J.S.A. 27:23-32, or N.J.S.A. 27:23-4, or N.J.S.A. 27:23-33, subject to arrest, fine and imprisonment pursuant to applicable law.

(j) The Certificate holder shall assume all liability for any and all damage or injury arising out of or related in any way to the Certificate holder's activity on or about the Turnpike and by accepting the Certificate agrees to release the Authority and its servants, agents and employees from any liability or damages resulting directly or indirectly from the Certificate holder's use or occupancy of the Turnpike in connection with the Certificate.

(k) The Certificate holder shall indemnify and hold harmless the Authority and its servants, agents and employees from any liability or damages, including attorney's fees and costs, caused by, directly or indirectly, the Certificate holder as a result of the holder's activities or actions on the Turnpike.

(l) The Authority shall not be responsible for the views and ideas expressed by a person or organization holding a Certificate. The Certificate holder shall publish this disclaimer on placards or signs used by the Certificate holder, if the use of placards or signs are provided for in the Certificate, and shall also publish this disclaimer on the literature that is distributed. In addition, through signs, public announcements and/or personal communication, the Authority may disclaim responsibility for the views and ideas expressed by the Certificate holder, and/or sponsorship of the Certificate holder's cause.

New Rule, R.1997 d.82, effective February 18, 1997.
See: 28 N.J.R. 2518(a), 28 N.J.R. 3242(a), 29 N.J.R. 587(a).
Amended by R.1998 d.492, effective October 5, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), inserted "or conduct a survey" following "literature" in the first sentence and updated the telephone number at the end of the last sentence.

19:9-1.24 Lane usage; Interchanges 11 to 14

(a) The left travel lanes of the New Jersey Turnpike's outer roadways from Interchange 11 in the Township of Woodbridge to Interchange 14 in the City of Newark are designated as special reserved lanes for high occupancy vehicles ("HOVs") during certain weekday hours specified below. Such lanes may only be used by vans or cars with a minimum of three persons or more, inclusive of the driver, or by buses or motorcycles regardless of occupancy, during time periods set forth in (a)1 and 2 below. During all other hours, the lanes will be open to all vehicular traffic, with the exception of commercial vehicles as that term is defined in N.J.A.C. 19:9-1.1.

1. Northbound—from 6:00 A.M. to 9:00 A.M., Monday through Friday, from Interchange 11 to Interchange 14.

2. Southbound—from 4:00 P.M. to 7:00 P.M., Monday through Friday, from Interchange 14 to Interchange 11.

(b) Excepted from the provisions of this section are State Police vehicles, the Authority's maintenance and official vehicles and vehicles authorized to furnish towing and other services to disabled vehicles on the Turnpike, when they are properly in use in the performance of authorized Turnpike duties. Also exempt are all other vehicles discharging emergency functions, such as ambulances and fire engines.

(c) The Authority retains discretion to modify or suspend the occupancy requirement and/or hours of operation and permit the closure of the HOV lanes to allow operation as general purpose traffic lanes in emergency circumstances based upon the impact on patron safety, convenience and the orderly flow of traffic.

(d) Enforcement of this section shall be governed by the traffic control provisions set forth in N.J.S.A. 27:23-28 and N.J.A.C. 19:9-1.3.

New Rule, R.1996 d.508, effective November 4, 1996.
See: 28 N.J.R. 2520(a), 28 N.J.R. 3242(b), 28 N.J.R. 4803(a).

SUBCHAPTER 2. PURCHASING AND CONTRACTING

19:9-2.1 General provisions

(a) All contracts of the Authority entered into for the performance of any work, or any purchases or hiring of personal property, services, supplies, equipment or goods, shall be as prescribed in these regulations and procedures. The objective of these regulations is to enable the Authority to accomplish its procurement equitably and expeditiously at the least possible cost. These regulations may be added to or amended by the specific provisions of each bid or proposal specifications or contract documents.

(b) Contracts entered into for the furnishing or performing of services of a professional nature, or for the supplying of any product or the rendering of any service by a public utility, subject to the jurisdiction of the Board of Public Utility Commissioners of the State of New Jersey shall be subject only to N.J.A.C. 19:9-2.12.

Amended by R.1982 d.446, effective December 20, 1982.

See: 14 N.J.R. 974(a), 14 N.J.R. 1464(d).

Hearings to be held by the Executive Director instead of the Chief Engineer. Arrangements for the hearing to be made by the Senior Attorney instead of the Chief Engineer.

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), substituted "be subject only to N.J.A.C. 19:9-2.12" for "not be subject to these regulations" at the end.

19:9-2.2 Purchases for amounts requiring public advertising

(a) Rules concerning advertising and awards of bids:

1. Advertisement for competitive bids shall be placed in an appropriate newspaper or journal, having a large circulation in the State. Such advertisement shall be published not less than seven days preceding the date upon which the proposals are to be received and opened. All advertisements will contain:

- i. A brief description of the supplies, materials, equipment or services to be furnished or performed;
- ii. Notice of the place where proposal forms, specifications, terms and conditions may be obtained; and
- iii. The place, date and time when the sealed bids shall be publicly opened.

2. In addition to advertising, bids may be solicited from all known interested parties by mail. Such solicitations shall provide prospective bidders with at least the same information contained in the public advertisement.

3. In the event that amendment of any pertinent information supplied to prospective bidders becomes necessary, notice of the change(s) shall be given to all prospective bidders having requested specifications at least three days prior to the opening of the bids. If such notice is given orally, it shall be promptly confirmed by written addendum.

(b) Rules concerning terms and conditions applicable to submission of bids:

1. All bids must be properly signed and executed.
2. Any correction of an entry made on the proposal form should be initialed by a duly authorized representative of the bidder.
3. Bidders may withdraw bids, or withdraw and resubmit bids, at any time up to 15 minutes prior to the public opening, signed by a duly authorized representative of the bidding firm. Bids so withdrawn shall be returned to the bidders unopened.

4. In the case of inconsistencies or errors in unit prices, extensions and totals, the Authority shall have sole discretion to make determinations with regard to same. If the total price is found to be incorrectly computed, discrepancies will be corrected by the Authority on the basis of the written unit prices, and determination of the low bidder will be made on the basis of the correct total price so determined. The Authority shall not be liable for any failure or error in determining or correcting errors or discrepancies.

5. In particular cases where permitted or required by the Authority in the particular bid specifications, bidders may be permitted to submit partial bids. The Authority reserves the right to accept any item or group of items of any bid.

(c) Rules concerning receipt, opening, and award of bids:

1. All bids solicited by advertising or by mail must be submitted in sealed envelopes provided by the Authority on the appropriately signed proposal forms furnished by the Authority on or before the time fixed for the public opening. Any bids received after the bidding has been closed shall be returned to the bidder unopened.

2. The purchasing or bid supervisor shall maintain a secured place for the purpose of receipt and securing bids. When sealed envelopes containing bids are received in the office of the Authority they shall be date-stamped and deposited (unopened) in the appropriate secure location.

3. Bids shall be opened publicly at the time and place designated in the Invitation for Bids or Advertisement for Proposals. The amount of each bid, the identity of each bidder, and such other information relevant to the bid shall be recorded in writing and the bid tabulation shall be open to public inspection.

4. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids or contract documents, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.

5. Correction or withdrawal of inadvertently erroneous bids after opening, or cancellation of awards or contracts based on such mistakes, may be permitted in the sole discretion and determination of the Authority. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Authority or fair competition shall be permitted and a decision to permit the correction or withdrawal of bids, or to cancel awards or contracts, based on bid mistakes, shall be supported by a written determination made by the Director of Administrative Services and Technology or the Chief Engineer.

6. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids or other contract documents. In the event that bid prices submitted by two or more low responsible bidders are identical and the criteria in the Invitation for Bids or contract documents do not resolve the tie bid, the tie low bids shall be broken by the toss of a coin. If practical, the interested bidders may be invited to the Authority to participate in the coin tossing. Such tie breaking shall be noted on the Bid Summary. The Authority retains the right to reject any or all bids, to waive informalities and minor irregularities, and to rebid the entire contract.

7. When it is determined impractical to initially prepare a purchase description to support an award based on price, an Invitation for Bids or Advertisement for Proposals may be issued requesting the submission of unpriced proposals to be followed by an Invitation for Bids or Advertisement for Proposals limited to those bidders whose unpriced proposals have been determined as qualified for the project by the Director of Administrative Services and Technology or the Chief Engineer.

8. Bid or proposal guarantees on bid or proposal bonds may be required in such form and amount as deemed necessary by the Director of Technology and Administrative Services or Chief Engineer to guarantee the amount of the bid. In that event, the requirement of a bid or proposal guarantee or bond, and the form and amount thereof shall be set forth or specified in the bid specifications.

9. Performance bonds, contract bonds or consents of surety may be required in such form and amount as deemed necessary by the Director of Administrative Services and Technology or Chief Engineer to insure faithful performance of the contract or for the payment of persons performing work on the project. In that event, the requirement of a performance or contract bond or consent of surety, and the form and amount thereof shall be set forth or specified in the bid specifications. The bond shall be submitted by the successful bidder upon notification.

(d) Rules concerning dispensing with public bid procedure:

1. A contract may be awarded for a supply, service, or product without competitive sealed proposals when the Authority upon written recommendation of the Director of Technology and Administrative Services or the Chief Engineer or Director of Maintenance determines and acts by appropriate resolution that there is only one source for the required supply, service or product.

2. When the Authority deems that there exists threat to the health, welfare or safety of the public or of property under emergency conditions, or the exigency of the situation does not allow sufficient time to advertise and award bids by public bidding, the Authority may, by appropriate resolution, acting on the written recommendation of the Director of Technology and Administrative Services or Chief Engineer or Director of Maintenance, waive the requirement of public bidding provided that such emergency requirements shall be made with such competition as is practicable under the circumstances.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (c), rewrote 6 and 8; and in (d), inserted references to the Director of Maintenance throughout.

19:9-2.3 Purchases under amount requiring public advertising

(a) In the case of purchases of personal property or services, where the aggregate cost or amount involved is less than the minimum amount for which public advertising for bids is required, competitive bidding is not required. As determined in the discretion of the Director of Administrative Services and Technology or Chief Engineer, price quotations may be solicited from vendors to the extent determined appropriate by the Director of Administrative Services and Technology or Chief Engineer.

(b) Awards of bids may be to other than the lowest bidder for valid reasons, if specifically recommended by the Director of Administrative Services and Technology or Chief Engineer.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-2.4 Termination of contract

A contract awarded to the successful bidder may be terminated by the Authority at any time for inadequate or improper performance, or for breach of any terms, conditions, or obligations of the contract, as determined by the Authority, or if the vendor shall make an assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or if an involuntary petition in bankruptcy is filed against the vendor and the act of bankruptcy therein alleged is not denied by the vendor. Upon termination, the Authority shall be liable only for payment of goods or services properly performed in accordance with the contract. The Authority shall have the right to purchase non-delivered goods to replace defective goods and services on the open market and hold the vendor liable for the difference between the price set forth in the contract for such goods or services and the prices paid on the open market. Further, the Authority reserves the right to terminate any contract entered into provided written notice has been given to the contractor at least 15 days prior to such proposed termination date. In addition, the Authority shall have the right, without the necessity of court proceedings, to recover all equipment, material or supplies that are the property of the Authority and have been entrusted with the vendor to be used in the performance of said contract. Nothing in this section is intended to limit the Authority's right to legally pursue all costs which exceed the amount due and owing the vendor under said contract. The list of remedies in this section is not exclusive.

Amended by R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-2.5 Purchases under or in combination with State or other agency contracts

(a) When it is determined to be proper and in the best interest of the Authority, the Authority may purchase equipment, goods, materials and supplies directly, without advertising, from vendors who hold contracts with the State of New Jersey or other State or multi-state authorities or agencies of the State of New Jersey.

(b) When it is determined to be proper and in the best interests of the Authority, the Authority may contract with and purchase by public bid procedure, services, equipment, goods, materials and supplies, in combination with the requirements of the State of New Jersey or other State or multi-state authorities or agencies.

(c) In either event, the Director of Administrative Services and Technology or Chief Engineer will submit a written recommendation to the Authority which shall set forth the details of the proposed acquisition and shall state the reasons for proceeding under or in combination with such State or other State authority contract or requirements.

(d) When it is determined to be proper and in the best interest of the Authority, the Authority may determine, by

public bid procedure, the best price for the purchase of equipment, goods, materials and supplies. If that price is lower than the price that the State of New Jersey or other State or multi-state authorities or agencies of the State of New Jersey have obtained through public bidding, the Authority may separately award such contract. If it is determined that the price by public bid procedure is not lower than that obtained through a public bid process by the State of New Jersey or other State or multi-state authorities or agencies, the Authority may contract with the vendors holding contracts with these entities.

Amended by R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
Amended by R.1998 d.492, effective October 5, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (a), inserted "of the State of New Jersey" at the end; and added a new (d).

Case Notes

Members of consortium of public agencies in charge of state toll roads and interstate toll connections were not ultra vires in bidding out contract for integrated electronic toll collection system; each agency was authorized to take such action. *Nachtigall v. New Jersey Turnpike Authority*, 302 N.J.Super. 123, 694 A. 1057 (N.J.Super.A.D. 1997).

19:9-2.6 Sale of surplus personal property

(a) Sales of surplus personal property, where the anticipated aggregate proceeds are estimated by the Director of Technology and Administrative Services or exceed the minimum amount requiring public advertising of purchases, shall be made after public advertisement and competitive bids. The advertising and bid procedures shall be basically as set forth in N.J.A.C. 19:9-2.2(a), (b) and (c). The Authority may by resolution waive the requirement of public advertising on a particular sale.

(b) In the case of sales of surplus property, where the anticipated aggregate proceeds are estimated by the Director of Technology and Administrative Services to be less than the minimum amount requiring public advertising of purchases, competitive bidding is not required. As determined in the discretion of the Director of Technology and Administrative Services, price quotations may be solicited from vendors to the extent determined appropriate by the Director of Technology and Administrative Services.

(c) Award of the sale will be made to the highest bidder meeting the terms and conditions of the bid.

(d) In the event no bids, or inadequate low bids, in the determination of the Director of Technology and Administrative Services, are received, the Director of Technology and Administrative Services may in his or her discretion reject all bids, reoffer for sale, negotiate, trade-in or scrap the sale items.

(e) Upon determination by the Director of Technology and Administrative Services, surplus personal property or equipment may be sold in conjunction with or as part of an

auction or sale proceeding conducted by the State of New Jersey or other State authorities.

Amended by R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
Amended by R.1998 d.492, effective October 5, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

19:9-2.7 Procedure for prequalification and award of construction contracts

(a) All prospective bidders for construction in excess of \$50,000 shall be prequalified annually into classifications by the Chief Engineer. Prospective bidders will be classified according to the type of work and the amount of work on which they are entitled to bid as set out in the schedule of classifications set forth at Appendix A to this chapter, incorporated herein by reference. Proposals submitted by prequalified bidders who have received classification ratings as set forth in Appendix A within 10 percent of the total price of the proposal will be considered for award by the Authority. The Chief Engineer may, from time to time, add additional specialized work categories to the schedule of classifications.

(b) In order to prequalify in classification, prospective bidders shall submit annually or at least 21 calendar days prior to bid opening of a specific contract, proof of the following:

1. As to type of work, recent satisfactory experience as a contractor on a contract involving substantially the same or similar work to the classification being sought;

2. As to amount of work, recent satisfactory experience as a contractor on a single contract having a value of at least 60 percent of the maximum limit of the classification rating being sought; several contracts performed at or about the same time having a cumulative value of at least 60 percent of the said maximum limit;

3. Satisfactory financial condition of the prospective bidder;

4. Adequate facilities, including plant, equipment and experience of key personnel and officers of the prospective bidder;

5. That the bidder is not now, nor has been involved, directly or indirectly, in any proceeding, conduct or activity relating to, or reflecting upon, the moral integrity of the bidder by means of sworn affidavit; and

6. A Contractor's Qualifying Statement showing the prospective bidder's status at the end of the month prior to the date of the statement. When submitting a proposal, prequalified bidders may not submit another Qualifying Statement but will instead submit a prequalification recapitulation in such form as may be prescribed by the Authority.

(c) The Chief Engineer shall review the statement and other information submitted by the prospective bidder and shall notify the prospective bidder of the decision as to their classification by certified mail. The classification will be valid for a period of one year from the date of the Chief Engineer's decision, and the prospective bidder will be allowed to bid on all Authority contracts within its classification limits for this one year period without the need of additional prequalification, subject to subsections (d) and (g) below. At the end of this one year period, the prequalification of the bidder will expire, and to be renewed, the prospective bidder must meet the requirement of (b) above.

(d) The Chief Engineer shall reserve the right to require a prospective bidder to submit such additional evidence of qualifications as deemed necessary, and shall consider any evidence available of the financial, technical, and other qualifications and ability of the bidder. The Chief Engineer may change or revoke at any time the classifications of any bidder upon any evidence that said bidder does not meet the financial, technical, moral or other qualifications of the classification.

(e) The Chief Engineer may deny prequalification of any bidder who fails to comply with the provisions of subsection (b) above and, further, may recommend to the Authority rejection of any bid where the bidder, at such time, has failed to comply with the provisions of this section.

(f) The Authority reserves the right to waive the prequalification procedures and requirements in contracting in an emergency situation.

(g) A bidder may be disqualified from future bidding on any Authority project if such bidder claims, whether successfully or not, its right to withdraw its bid because of a unilateral mistake. Such disqualification may be effective for a period of up to six months from the date of opening the bid sought to be withdrawn. Only in cases where the withdrawing bidder did not act in a commercially reasonable manner would the Authority choose to disqualify the bidder, unless the bidder previously sought to withdraw a bid within the 12 months preceding the date of opening the bid sought to be withdrawn, in which event the bidder may be disqualified regardless of whether the second mistake was commercially reasonable.

(h) Bidders on all other contracts not requiring prequalification shall, however, comply with the provisions of subsections (b)3, 4 and 5 above.

Amended by R.1984 d.447, effective October 1, 1984.
See: 16 N.J.R. 2075(a), 16 N.J.R. 2689(b).

(b): "seven working days" changed to "21 calendar days".

Amended by R.1993 d.326, effective July 6, 1993.

See: 25 N.J.R. 62(b), 25 N.J.R. 2906(d).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

3. Referring the matter for further deliberations by and among appropriate Authority staff. If the matter is referred for further deliberations, the nature of the deliberations will be given in writing to the petitioner and the deliberations must conclude within 90 days after the matter is referred.

i. Upon the conclusion of further deliberations, the Authority shall either deny or grant the petition. If the petition is granted, the Authority shall initiate a rulemaking proceeding within 90 days. The Authority will mail the results of these deliberations to the petitioner and submit the results to the Office of Administrative Law for publication in the New Jersey Register.

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Amended by R.2003 d.288, effective July 21, 2003.

See: 34 N.J.R. 2411(a), 35 N.J.R. 3392(a).

In (a), introductory paragraph inserted "within 15 days of receipt" following "Authority will"; in (b), introductory paragraph substituted "60" for "30"; in (c) rewrote 1 through 3.

19:9-6.4 Authority's failure to act on a petition for rulemaking

(a) If the Authority fails to act in accordance with the time frames set forth in N.J.A.C. 19:9-6.3, the petitioner may request, in writing, a public hearing on the petition by submitting a request to the Director of the Office of Administrative Law in accordance with N.J.A.C. 1:30-4.3.

(b) If a petitioner requests a public hearing from the Director of the Office of Administrative Law due to the Authority's failure to adhere to the time frames listed in N.J.A.C. 19:9-6.3, and if the Authority receives notice from the Director of the Office of Administrative Law of his or her intent to hold a public hearing on the petition, the Authority may, within 15 days of receipt of said notice, provide notice of a public hearing.

New Rule, R.2003 d.288, effective July 21, 2003.

See: 34 N.J.R. 2411(a), 35 N.J.R. 3392(b).

19:9-6.5 Extension of the public comment period

(a) The Authority may extend the time for submission of public comments on a proposed rulemaking at its discretion *without* the need for a specific request or the demonstration of sufficient public interest.

(b) The Authority shall extend the time for submission of public comments for an additional 30-day period, if, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of time to submit comments.

(c) Sufficient public interest is demonstrated in an extension of the comment period when 10 or more individuals or entities have expressed the need for the extension of the comment period.

New Rule, R.2003 d.288, effective July 21, 2003.

See: 34 N.J.R. 2411(a), 35 N.J.R. 3392(b).

19:9-6.6 Conducting a public hearing

(a) The Authority may conduct a public hearing on a proposed rulemaking at its discretion without the need for a specific request or the demonstration of sufficient public interest.

(b) The Authority shall conduct a hearing at the request of a Legislative Committee, a State agency, or a county, local, or municipal governmental entity, if the request is made to the Authority within 30 days following publication of the proposed rulemaking or if sufficient public interest is demonstrated.

(c) Sufficient public interest is demonstrated with regard to the conducting of a public hearing when 50 or more individuals or entities have expressed either the need for a public hearing on the rule proposal or disagreement with one or more substantive provisions of the rule proposal.

(d) The Authority shall not consider, in the calculation of the number of comments received under (c) above, those comments that relate to specific recommended changes in the rule that the Authority has agreed to make or does not have the legal authority to make.

New Rule, R.2003 d.288, effective July 21, 2003.

See: 34 N.J.R. 2411(a), 35 N.J.R. 3392(b).

SUBCHAPTER 7. ORGANIZATION OF THE NEW JERSEY TURNPIKE AUTHORITY

19:9-7.1 Authority responsibilities

The Authority is responsible for the design, construction, maintenance and operation of a limited access, high-speed roadway, for related projects designed at N.J.S.A. 27:23-1 et seq. and for such other activities as may be authorized by law.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-7.2 (Reserved)

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Repealed by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Section was "Table of Organization".

19:9-7.3 Functions of the departmental units

(a) Functions of the various departments within the Authority are as follows:

1. Engineering: This department is responsible for design, construction and major rehabilitation of the roadway, bridges and related facilities.

2. Maintenance: This department is responsible for the care and maintenance of the Authority's highways, bridges, buildings, real property and equipment.

3. Toll Collection: This department oversees the collection of toll revenue and the activities of the toll collection personnel in providing service to the motoring public.

4. Operations: This department manages all activities related to day-to-day operation of the Turnpike. Its responsibilities include traffic engineering, traffic regulations, emergency services, coordination of construction and maintenance activities, hazardous materials response, patron safety, the Traffic Operations Center, operating the highway advisory radio program, and response to towing disabled vehicles.

5. Finance and Budgets: This department is responsible for all fiscal matters for the Authority, including financing and investment issues, annual capital and operating budgets, asset management, payroll, other disbursements, and toll revenue accounting.

6. Law: This department provides legal service to all Authority departments, including the review of contracts, acquisition of property, management of all legal and quasi-legal hearings, coordination and administration of the Authority's legal affairs with General Counsel and other outside counsel, and accountability for maintenance of the Authority's general specifications. In addition, this department has all responsibility for risk management and insurance functions and operations.

7. Human Resources: This department is responsible for all employment activities (recruiting, promotion, etc.), labor relations management, training of Authority employees, employee safety, and administration of employee benefits programs.

8. Technology and Administrative Services: This department is responsible for providing support to the Authority departments and its employees, including management information systems, office services, mail activities, duplication, purchasing of all materials, supplies, and services for the maintenance, repair and operation of all departments, management of the disposal of surplus property and maintenance and functioning of the Authority communications systems. In addition, this department is responsible for accountability for industrial and technical non-toll revenue, procurement, contract administration, monitoring and analysis of change orders and the issuance and tracking of orders for professional services.

9. Communications: This department coordinates Authority interaction with the media, provides information to the press and public, and manages all community relations.

10. Secretary to the Authority: This office manages all activities of the Authority's Commissioners, and manages the official records of the Authority and their disposition.

11. Office of the Executive Director: This office is responsible for the overall direction and planning of the Authority. In addition, the office oversees the deferred compensation program, internal audit and patron services.

Amended by R.1990 d.531, effective October 9, 1990.

See: 22 N.J.R. 3388(a).

Department and functions reorganized.