

report such income items and amounts reported to the Federal government by providing a copy of the form 8833 filed with the Federal government to the managerial member to attach to the combined return. In the event that the member did not file any return or form with the Federal government but the member is treaty protected, a pro forma form 1120-F and a pro forma form 8833 must be prepared and attached to the combined return for that member.

18:7-21.21 Subchapter S corporations and combined returns

(a) A New Jersey S corporation may elect to be included in a combined group reported on a combined return pursuant to this subchapter **pursuant to N.J.S.A. 54:10A-4(f)**. Subsequent to electing to be included in the combined group on the combined return, the [New Jersey] S corporation shall be taxed in the same manner and rate as the other members of the combined group. **The S corporation does not have to make an additional election to be taxed as a C corporation pursuant to N.J.S.A. 54:10A-5.22(d), as such election for inclusion as a member of a combined group is an election to be taxed as a C corporation.**

(b) A [qualified NJ-QSSS] **Qualified Subchapter S Subsidiary** of a New Jersey S corporation that has elected to be included on a combined return **pursuant to N.J.S.A. 54:10A-4(f)** must also be included along with its corporate parent [New Jersey] S corporation **and shall be taxed in the same manner as the other members of the combined group.** [A qualified NJ-QSSS of a Federal S corporation that has not elected New Jersey S corporation status must be included in a combined group on a combined return.] **The Qualified Subchapter S Subsidiary does not have to make an additional election to be taxed as a C corporation pursuant to N.J.S.A. 54:10A-5.22(d), as such election for inclusion as a member of a combined group is an election to be taxed as a C corporation.**

(c) A Federal S corporation making a validly accepted retroactive New Jersey S corporation election cannot retroactively be excluded or included from the combined group filing a combined return. After being approved for a valid, retroactive New Jersey S corporation election, the approved New Jersey S corporation may prospectively elect to be included in the combined group filing a New Jersey combined return.]

(c) **An S corporation that has elected to be taxed as a C corporation pursuant to N.J.S.A. 54:10A-5.22(d) must be included as a member of the combined group.**

(d) **A Qualified Subchapter S Subsidiary that has elected to be taxed as a C corporation pursuant to N.J.S.A. 54:10A-5.22(d) must be included as a member of the combined group.**

(e) **Only one election is necessary for either an S corporation or a Qualified Subchapter S Subsidiary to be taxed as a C corporation and to be included in the combined group.**

18:7-21.27 Principles of Federal consolidated returns applicable
(a)-(g) (No change.)

(h) To the extent consistent with the Corporation Business Tax Act, P.L. 1945, c. 162 (N.J.S.A. 54:10A-1 et seq.), the Federal rules and regulations governing consolidated return net operating losses and net operating loss carryovers shall apply to the New Jersey net operating loss carryover provisions at N.J.S.A. 54:10A-4.6.h as though the combined group filed a Federal consolidated return, regardless of how the members of the combined group filed for Federal purposes.

1.-2. (No change.)

3. The provisions of the I.R.C. governing the interaction between I.R.C. §172 and 250 that limits or reduces Federal net operating losses and Federal net operating loss carryovers, shall apply to New Jersey net operating loss carryovers pursuant to subsection (v) of section 4 at P.L. 1945, c. 162 (N.J.S.A. 54:10A-4) and the New Jersey net operating loss carryover provisions of subsection h[.] of section 18 at P.L. 2018, c. 48 (N.J.S.A. 54:10A-4.6) **for net operating losses and net operating loss carryovers generated in privilege periods ending before July 31, 2023, but not to net operating losses and net operating loss carryovers generating in privilege periods ending on and after July 31, 2023.**

4. **The Federal rules and limitations at I.R.C. § 172(a)(2) apply for privilege periods ending on and after July 31, 2023, when subtracting any net operating losses (and when they are utilized by the taxpayer as a carryover) when calculated pursuant to N.J.S.A. 54:10A-4(v) or 54:10A-4.6.h (and when they are utilized by the taxpayer as a**

carryover) when calculating taxable net income. The limitation set forth in paragraph 2 of subsection (a) at I.R.C. § 172 (26 U.S.C. § 172(a)(2)) shall apply, except that August 1, 2023, is substituted for the reference to January 1, 2018, in subparagraph (A) of paragraph (2) of subsection (a) at I.R.C. § 172 (26 U.S.C. § 172), and July 31, 2023, is substituted for the reference to December 31, 2017, in subparagraph (B) of paragraph (2) of subsection (a) at I.R.C. § 172 (26 U.S.C. § 172).

(i) There are interactions between N.J.S.A. 54:10A-4.15 **(in periods prior to repeal)**, 54:10A-4.6.d, 54:10A-4(k)(5), 54:10A-4.5.c, 54:10A-4.6.n, 54:10A-4(v), 54:10A-4.6.h, 54:10A-4.6.m, and 54:10A-5.46, impacting dividends, the dividend exclusion, GILTI, FDII, Net Operating Losses (NOLs), and special deductions as noted in this subsection.

1.-2. (No change.)

3. [The] **For periods ending before July 31, 2023, the** only Federal rules with regard to a Federal special deduction that apply are the rules in relation to I.R.C. § 250 (see N.J.S.A. 54:10A-4.15, which specifically coupled the Act to I.R.C. § 250)[. None] **and none** of the other Federal rules governing Federal special deductions apply. [If a combined group has GILTI and FDII, and the members are eligible for the I.R.C. § 250 deductions and take the deductions for Federal tax purposes, the Federal consolidated return rules and Federal rules governing the interaction of net operating losses and the I.R.C. § 250 deductions apply.] **For periods ending on and after July 31, 2023, New Jersey does not conform to any of the Federal special deductions, and none of the rules governing Federal special deductions are applicable.**

(j)-(k) (No change.)

(l) For more on the interaction of the Federal rules in relation to New Jersey net operating losses and net operating loss carryovers (but not prior net operating loss conversion carryovers), see N.J.S.A. 54:10A-4(w), 54:10A-4.6, and 54:10A-4.5.c.

OTHER AGENCIES

(a)

ECONOMIC DEVELOPMENT AUTHORITY

Administrative Rules

Disqualification/Debarment and Conflict of Interest Rules

Proposed Amendments: N.J.A.C. 19:30-2.1 through 2.6

Proposed New Rules: N.J.A.C. 19:30-2.5, 2.6, and 2.9

Proposed Repeal: N.J.A.C. 19:30-2.7

Authorized By: New Jersey Economic Development Authority, Tim Sullivan, Chief Executive Officer.

Authority: N.J.S.A. 34:1B-1; and Executive Order No. 34 (1976) and Executive Order No. 189 (1988).

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

Proposal Number: PRN 2025-014.

Submit written comments by April 19, 2025, to:

Alyson Jones, Managing Director of Legislative and Regulatory Affairs
New Jersey Economic Development Authority
PO Box 990
Trenton, NJ 08625-0990
Alyson.jones@njeda.gov

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (“NJEDA” or “Authority”) is proposing amendments to its existing debarment and disqualification rules at N.J.A.C. 19:30-2, and proposing new rules and a repeal relating to the suspension of applicants for Authority financial

assistance and Authority contractors. The proposed new rules relate to suspension and are proposed to codify the Authority's current suspension procedure, in accordance with Executive Order No. 34 (1976) and Executive Order No. 189 (1988). The proposed amendments to the existing debarment and disqualification rules are proposed to update the rules consistent with current Authority policies and procedures, which follow the aforementioned executive orders. These debarment and disqualification rules were last updated in 2010.

N.J.A.C. 19:30-2.1, Definitions, is proposed for amendment to define the following new terms: "Authority," "Authority financial assistance," "Board" or "Authority Board," "person," and "suspension." Additionally, the Authority is proposing to amend the following definitions for clarity: "affiliates," "Authority contracting," "debarment," and "disqualification." "Affiliates" is proposed for amendment to indicate the factors the Authority may consider in determining if an entity is an "affiliate." "Authority contracting" is proposed for amendment to remove "project" from the defined term and to clarify that the term means any arrangement giving rise to an obligation to supply anything to or perform any service for the Authority, other than by virtue of employment with the Authority. "Debarment" is proposed for amendment to add that a period of debarment from Authority contracting shall be for a reasonable period of time that is commensurate with the seriousness of the offense. "Disqualification" is proposed for amendment to indicate that the disqualification period shall be for a reasonable period of time commensurate with the seriousness of the offense, and also to add that disqualification could additionally mean an exclusion from supplying anything to or performing any service in connection with Authority financial assistance, or from otherwise receiving a benefit from a program administered by the Authority.

N.J.A.C. 19:30-2.2 is proposed for amendment to clarify the causes and conduct that may lead to disqualification or debarment of applicants for Authority financial assistance and Authority contractors for consistency with current Authority practices and procedures. Subsection (a) is proposed for amendment to codify that intentional misrepresentation of material information or intentional failure to disclose material information, offenses related to fraud, and violations of the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1 et seq., are potential grounds for debarment or disqualification. Additionally, the section heading is proposed for amendment and several grammatical, syntax, and updated cross-references are proposed. Subsection (b) is proposed for amendment to specifically reference the New Jersey Uniform Code of Ethics as an example of a guideline that the State Ethics Commission may promulgate.

N.J.A.C. 19:30-2.3 is proposed for amendment to add clarifying language regarding the conditions required to establish a cause of action for debarment or disqualification consistent with current Authority policies and procedures. Notably, this proposed amendment codifies that the existence of cause warranting debarment or disqualification may be established upon the concession of the existence of such cause in a settlement agreement, consent decree, deferred prosecution agreement, or other similar agreement. The amendment proposes to additionally clarify that a disqualification or debarment remain in effect during the pendency of any appeal, absent any such reversal or other relevant court order. Additionally, grammatical and syntax corrections are proposed.

N.J.A.C. 19:30-2.4 is proposed for amendment to clarify the procedural steps the Authority shall take when proposing to debar or disqualify an applicant for Authority financial assistance or an Authority contractor consistent with current Authority policies and procedures. This proposed amendment codifies that the decision to proceed with disqualification or debarment shall be made in accordance with the Senator Byron M. Baer Open Public Meetings Act, the requirements of the written notice provided to an applicant or contractor informing them of the decision to disqualify or debar, and clarifies the hearing procedure following the Authority's decision to either debar or disqualify. Additionally, subsections (f) and (g) are proposed to be codified as N.J.A.C. 19:30-2.7 and several grammatical and syntax corrections are proposed.

New N.J.A.C. 19:30-2.5 is proposed to codify the conditions the Authority must meet to suspend an applicant for Authority financial assistance or an Authority contractor consistent with the aforementioned executive orders. Notably, these proposed amendments codify that suspension shall only be imposed upon approval of the Authority's Board

and the Attorney General, as well as the evidentiary burden of proof required to demonstrate cause that suspension is warranted.

New N.J.A.C. 19:30-2.6 is proposed to codify the procedural steps the Authority shall take when suspending an applicant for Authority financial assistance or an Authority contractor consistent with the aforementioned executive orders, including that any decision to suspend shall be made in accordance with the Senator Byron M. Baer Open Public Meetings Act and with approval of the Attorney General, the requirements for the written notice provided to an applicant or contractor informing of the decision to suspend, and that a suspension shall not continue beyond 18 months unless civil or criminal action regarding the alleged violation has been initiated or debarment/disqualification action has been initiated.

Existing N.J.A.C. 19:30-2.7 is proposed for repeal.

Proposed N.J.A.C. 19:30-2.7, Affiliates, is relocated from N.J.A.C. 19:30-2.4(f) and (g) regarding affiliates. Additionally, new language is proposed to clarify that this section also applies to suspension, in addition to debarment and disqualification, consistent with the aforementioned executive orders, as well as corrections for grammar and syntax.

Recodified N.J.A.C. 19:30-2.8 is proposed for amendment to clarify that this section also applies to disqualification and suspension, in addition to debarment, consistent with the aforementioned executive orders. Several grammatical and syntax corrections are also proposed.

Proposed new N.J.A.C. 19:30-2.9 codifies language from Executive Order No. 34 (1976), which states that the exclusion of a person by virtue of debarment, disqualification, or suspension shall extend to all agreements, contracts, and subcontracts within the Authority's control or jurisdiction, and that an exception from total exclusion may be made when essential to the public interest and upon filing of a finding thereof with the Attorney General.

Recodified N.J.A.C. 19:30-2.10 is proposed for amendment to clarify that this section also applies to suspension, in addition to debarment and disqualification, to be consistent with the aforementioned executive orders. Proposed amendments are made for grammar and syntax corrections.

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

Social Impact

Executive Order No. 34 (1976) and Executive Order No. 189 (1988) provide that the Authority shall adopt rules and regulations governing the causes, conditions, and procedures applicable to determinations of debarment, disqualification, and suspension by the Authority. The Authority anticipates that the proposed amendments and new rules to its existing debarment, disqualification, and suspension rules will have a positive social impact by updating the rules consistent with Executive Order No. 34 (1976) and Executive Order No. 189 (1988) and will align with current Authority policies and procedures pertaining to debarment, disqualification, and suspension.

Economic Impact

The Authority anticipates that the proposed amendments, repeal, and new rules to its debarment, disqualification, and suspension rules will have a positive economic impact by providing clarity to applicants for Authority financial assistance and Authority contractors as to the grounds for debarment, disqualification, and suspension from participation in Authority projects consistent with existing law and current Authority policies and procedures.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments, repeal, and new rules are not subject to any Federal requirements or standards. Accordingly, no further analysis is required.

Jobs Impact

The Authority anticipates that the proposed amendments, repeal, and new rules to the debarment, disqualification, and suspension rules will not have a direct impact on the generation or loss of jobs.

Agriculture Industry Impact

An agricultural industry analysis is not required because the proposed amendments, repeal, and new rules are not related to any specific industry.

Regulatory Flexibility Analysis

The proposed amendments, repeal, and new rules will not impose new reporting, recordkeeping, or other compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The proposed amendments, repeal, and new rules will not have an impact on the average costs associated with housing or on the affordability of housing, as the rules pertain to disqualification, debarment, and conflict of interest rules. Accordingly, no further analysis is required.

Smart Growth Development Impact Analysis

The proposed amendments, repeal, and new rules will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendments, repeal, and new rules concern the disqualification and debarment and conflict of interest rules. Accordingly, no further analysis is required.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendments, repeal, and new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**, deletions indicated in brackets [thus]):

**SUBCHAPTER 2. [DISQUALIFICATION/ DEBARMENT/ CONFLICT OF INTEREST]
DISQUALIFICATION, DEBARMENT, AND SUSPENSION**

19:30-2.1 Definitions

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

“Affiliates” means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another. **When determining whether a person is an “affiliate,” the Authority may consider ownership, day-to-day control, voting rights, influence, membership in the board of directors, and responsibility over decisions.**

“Authority” means the New Jersey Economic Development Authority established pursuant to N.J.S.A. 34:1B-4.

“Authority [project] contracting” means any arrangement giving rise to an obligation to supply any thing to or to perform any service for the Authority, other than by virtue of employment with the Authority, including, but not limited to, performing construction work in connection with the construction of a project [financed with, and] undertaken by the Authority or paid for in whole or in part with Authority [assistance] funds, including, but not limited to, the service of architects, engineers, and professional planners.

“Authority financial assistance” means any loan, loan guarantee, grant, incentive, tax exemption, or other financial assistance that is approved, funded in whole or in part, authorized, administered, or provided by the Authority to any person.

“Board” or “Authority Board” means the members of the Authority as set forth at N.J.S.A. 34:1B-4.b.

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

“Disqualification” means an exclusion for a reasonable period of time commensurate with the seriousness of the offense from [receiving]:

1. Receiving Authority financial assistance; [or from being]
2. Being a tenant [in an Authority-financed project or Authority-owned project.] of the Authority;

3. Supplying anything to or performing any service for a private person or being a tenant of a private person in connection with Authority financial assistance, and the Authority retains the right to approve or disapprove the nature or quality of the goods, service, or lease of the persons who may supply the goods, perform the service, or enter into the lease; or

4. Otherwise receiving a benefit from a program administered by the Authority.

... “Person” means any natural person, company, firm, association, corporation, non-profit organization, or other entity.

“Suspension” means an exclusion for a temporary period of time, pending the completion of an investigation or legal proceedings, from any action excluded by debarment or disqualification.

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

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

1. (No change.)

2. Violation of the Federal Organized Crime Control Act of 1970, **Pub. L. 91-452; the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1 et seq.**; 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, **including, but not limited to, fraud**;

3. Violation of the Federal or State antitrust statutes, or of the Federal Anti-Kickback Act[; (], 18 U.S.C. § 874[)];

4. (No change.)

5. Violation of the “Law Against Discrimination,” [(P.L. 1945, c.169, N.J.S.A. 10:5-1 et seq., [as supplemented by P.L. 1975, c.127,]) or of the act banning discrimination in public works employment, [(N.J.S.A. 10:2-1 et seq.]), or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein [(c.114, L.1942, N.J.S.A. 10:1-10 et seq.]);

6.-8. (No change.)

9. Any other cause of such serious and compelling nature as may be determined by the Authority to warrant disqualification [for assistance] or debarment, [from contracting with the Authority or from Authority project contracting] **including, but not limited to, intentional misrepresentation of material information or intentional failure to disclose material information, including such conduct as may be prescribed by the laws or contracts enumerated in this section even if such conduct has not been or may not be prosecuted as violations of such laws or contracts**;

10. (No change.)

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

i.-iii. (No change.)

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

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

(b) The provisions [in] at (a)11 above shall not be construed to prohibit an Authority officer or employee or special Authority officer or employee from receiving gifts from or contracting with persons [under] **pursuant to** the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the State Ethics Commission may promulgate[.], **including, but not limited to, the Uniform Code of Ethics as promulgated in accordance with the New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-12 et seq.**

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

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

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

2. (No change.)

3. The existence of a cause set forth [in] at N.J.A.C. 19:30-2.2(a)1 through 8 shall be established upon the rendering of a final judgment, [or] conviction, or decision, including a guilty plea or a plea of [nolo contendere] **nolo contendere** by a court of competent jurisdiction or by an administrative agency empowered to render such judgment, **conviction, or decision or upon the concession of the existence of such cause in a settlement agreement, consent decree, deferred prosecution agreement, or other similar agreement**. In the event an appeal taken from such judgment, [or] conviction, or decision results in reversal thereof, the disqualification/debarment shall be removed upon the request of the disqualified/debarred person unless other cause for disqualification/debarment exists. **Absent any such reversal or other relevant court order, the disqualification/debarment remains in effect during the pendency of any appeal.**

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

5. Debarment for the cause set forth [in] at N.J.A.C. 19:30-2.2(a)10 shall be proper, provided that one of the causes set forth [in] at N.J.A.C. 19:30-2.2(a)1 through 8 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

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

(a) [When the Authority seeks to disqualify/debar a person or his affiliates,] **The decision to proceed with a disqualification/debarment of a person(s) or their affiliate(s) shall be made by the Authority Board in accordance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21. Once the Authority has decided to proceed with disqualification/debarment, the person(s) or [persons] their affiliate(s) shall be furnished with a written notice [stating that]:**

[1. Disqualification/debarment is being considered;]

1. Stating that the Authority has made the decision to proceed with disqualification/debarment of the person(s) or their affiliate(s);

2. [The] Setting forth the reasons for the [proposed] disqualification/debarment; [and]

3. [An] **Indicating that the person(s) or their affiliate(s) will be accorded an opportunity for a hearing [will be afforded to such person or persons] if the hearing is requested, in writing, and the request is received by the Authority within seven days from the date of personal delivery or the date of receipt of the mailing of such disqualification/debarment notice[.]; and**

4. Stating that if the person(s) or their affiliate(s) does not request such a hearing, the disqualification/debarment shall go into effect immediately upon the expiration of the time specified at (a)3 above.

(b) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, [(N.J.S.A. [54]52:14B-1 et seq.[]), and 52:14F-1 et seq.]. Where any Federal or State department, agency, or instrumentality has already imposed debarment upon a party, the Authority may also impose a similar debarment without affording an opportunity for a hearing, provided the Authority furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in [his] **the party's** behalf to explain why the proposed similar debarment should not be imposed in whole or in part. **For such hearing, the Chief Executive Officer may designate an employee of the Authority to serve as a hearing officer and to make a recommendation on the merits to the Board. The hearing officer shall perform a review of the written record and may require an in-**

person hearing. The hearing officer has sole discretion to determine if an in-person hearing is necessary. The Chief Executive Officer of the Authority may also include a recommendation to the Board with the written report of the hearing officer.

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

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

19:30-2.5 Conditions for suspension

(a) The Authority may suspend a person for any of the causes at N.J.A.C. 19:30-2.2. Suspension shall be imposed only upon approval of the Authority Board and the approval of the Attorney General, except as otherwise provided by law.

(b) The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the Authority Board and of the Attorney General and shall be rendered in the best interests of the Authority and the State.

(c) Suspension shall not be based upon unsupported accusations, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists.

(d) In assessing whether adequate evidence that cause exists or whether evidence adequate to create a reasonable suspicion that cause exists, consideration shall be given to the amount of credible evidence that is available, to the existence or absence of corroboration as to important allegations, and to inferences that may properly be drawn from the existence or absence of affirmative facts.

(e) Reasonable suspicion of the existence of a cause described at N.J.A.C. 19:30-2.2(a)1 through 8 may be established by the rendering of a final judgment, conviction, or decision 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.

(f) A suspension invoked by any department, agency, or instrumentality of the State, any other state, or the Federal government for any of the causes described at N.J.A.C. 19:30-2.2 may be the basis for the imposition of a concurrent suspension by the Authority, which may impose such suspension without the approval of the Attorney General.

(g) Reasonable suspicion of the existence of a cause may be established by findings or allegations in a grand jury indictment, or other credible evidence available in a final judgment, conviction, or decision by a court or administrative agency of competent jurisdiction, in a grand jury indictment, other decision, or in a settlement agreement, consent decree, deferred prosecution agreement, or other similar agreement whether or not the person is a defendant in the legal proceeding, or other credible evidence available to the Authority.

19:30-2.6 Procedures; period of suspension and scope of suspension

(a) The decision by the Authority Board to suspend a person(s) or their affiliate(s) shall be made in accordance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21. The Authority shall transmit its decision to the Attorney General for the Attorney General to determine whether to approve the suspension.

(b) The Authority may suspend a person or their affiliate(s), provided that within 10 days after the effective date of the suspension, the Authority provides such party with a written notice:

1. Stating that a suspension has been imposed and its effective date;
2. Setting forth the reasons for the suspension unless the Attorney General determines that such reasons may not be properly disclosed;
3. Stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings that are the basis for suspension as may ensue; and
4. Indicating that, if within 60 days of the date of such notice, legal proceedings are not commenced in which such person is a defendant or the suspension is not removed, the person and their affiliate(s) will be given a statement of the reasons for the continued suspension and an opportunity for a hearing if they so request, or, if the Attorney General determines that such reasons may not be properly disclosed, a statement declining to give such reasons and setting forth the Authority's position regarding the continuation of the suspension. Such a hearing shall be an informal hearing conducted by the Authority and not subject to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The Chief Executive Officer may designate an employee of the Authority to serve as a hearing officer and make a recommendation to the Authority Board. The Authority, or the hearing officer, may conduct the hearing based solely on written submissions or require an in-person hearing. Where a suspension by any department, agency, or instrumentality of the State or Federal government has been the basis for suspension by the Authority, the Authority shall note the fact as a reason for suspension.

(c) A suspension shall not continue beyond 18 months from its effective date unless civil or criminal action regarding the alleged violation has been initiated, or unless debarment/disqualification action has been commenced. Whenever prosecution of the civil or criminal action or debarment/disqualification action has been initiated, the suspension may continue until the legal proceedings are completed.

19:30-2.7 Affiliates

[(e)] (a) A [disqualification/debarment] **disqualification, debarment, or suspension** may include all known affiliates of a person, provided that

each decision to include an affiliate is made on a [case by case] **case-by-case** basis after giving due regard to all relevant facts and circumstances.

[(f)] (b) The offense, **failure**, or inadequacy of performance of [an individual] **a natural person** may be imputed to [a] **another** person with whom [he] **the natural person** is affiliated, where such conduct **by the natural person** was accomplished within the course of [his] **the natural person**'s official duty or was [effected] **effectuated** by [him] **the natural person** with the knowledge or approval of such **other** person.

[19:30-2.7] Chief Executive Officer to implement regulation

The Chief Executive Officer is authorized to take all necessary action to implement and administer the provisions of this subchapter.]

19:30-[2.5]2.8 Notice to Attorney General and Treasurer

Insofar as practicable, prior notice of any proposed **disqualification, debarment, or suspension** shall be given to the Attorney General and the State Treasurer. The Authority shall [supply to] **promptly notify** the State Treasurer [a list] of all persons having been **disqualified, debarred, or suspended** in accordance with the procedures prescribed [herein] **in this subchapter**.

19:30-2.9 The extent of debarment, disqualification, or suspension

The exclusion of a person by virtue of debarment, disqualification, or suspension shall extend to all agreements, contracts, and subcontracts within the control or jurisdiction of the Authority. When it is determined by the Authority to be essential to the public interest and upon the filing of a finding thereof with the Attorney General, an exception from total exclusion may be made with respect to a particular agreement, contract, or subcontract.

19:30-[2.6]2.10 Authority discretion

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