



**NEW YORK**  
STATE OF  
OPPORTUNITY™

**Thruway  
Authority**

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**GOVERNANCE COMMITTEE MEETING NO. 36  
TUESDAY NOVEMBER 14, 2023  
ALBANY, NEW YORK**



**Thruway  
Authority**

**GOVERNANCE COMMITTEE AGENDA**

Meeting No.36  
November 14, 2023  
Albany, New York

- 
1. Approval of Minutes of Governance Committee Meeting No. 35
  2. Review, Approve and Authorize the Acting Executive Director to Implement the NYS Thruway Authority's 10 -Year Strategic Plan
  3. Approving the Procurement Contracts Policy (No. 25-5-01)
  4. Review and Approve the Sexual Harassment Policy (No.25-2-25)
  5. Other Business
  6. Adjournment

TO: The Governance Committee

DATE: November 14, 2023

FROM: Jerry B. Yomoah  
Assistant Secretary to Board

SUBJECT: Approval of Minutes of Committee Meeting No. 35

Copies of the Minutes of Committee Meeting No. 35 were made available to the Committee Members as part of the Agenda.

#### RECOMMENDATION

It is recommended that the Minutes of Committee Meeting No. 35, held on March 27, 2023 be approved by the Committee.



**NEW YORK  
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## **MINUTES**

### **GOVERNANCE COMMITTEE MEETING NO. 35**

**200 Southern Boulevard**

**Albany, New York**

**March 27, 2023**

The following committee members were present:

Joanne M. Mahoney, Chair

Robert Megna, Vice-Chair

Jose Holguin-Veras, Ph.D., Board Member

Heather Briccetti Mulligan, Board Member

Constituting a majority of the members of the Thruway Authority Board.

Staff were present:

Frank G. Hoare, Interim Executive Director

Matthew Trapasso, Chief of Staff

Matt Howard, Treasurer and Chief Financial Officer

Richard Lee, Chief Engineer

Joe Igoe, Deputy General Counsel

Jennifer Givner, Director of Media Relations & Communications

Mary Boehm, Director, Audit & Management Services

Andrew Trombley, Director of Contracts & Procurement Services

Diana Neboilo, Director of Revenue Management

Sean Lasher, Information Technology Specialist

Peter Nilsson, Information Technology Specialist

Tanya Morris, Board Secretary

The current membership of the Committee is Heather Briccetti -Mulligan as Chair of the Committee, Jose Holguin-Veras, Ph.D. and Chair Mahoney serves in the ex-officio capacity. The Governance Committee began at 1:25 p.m.

Ms. Morris recorded the minutes as contained herein (public notice of the meeting had been given).



### **Item 1**

#### **Approval of Minutes of the Governance Committee Meeting No. 34**

Upon motion duly made and seconded, the Governance Committee approved the minutes of the previous meeting held on December 5, 2022.

### **Item 2**

#### **Amending the Thruway Authority's Bylaws**

Mr. Igoe presented the Item. Copies of the Item was provided to the Committee Members and are maintained in Authority records. Details of the Committee Members discussion with staff are included in the video recording of and maintained by the Authority.

Upon motion duly made and seconded, the Governance Committee approved the Amending the Thruway Authority's Bylaws and authorized their submission to the Authority Board for consideration.

### **Item 3**

Review and Approval of Real Property Management Policy, Personal Property Disposal Policy, Procurement Contracts Policy, Whistleblower Policy, Code of Ethics Governing Employees, and Code of Ethics Governing Board Members.

Mr. Igoe presented the Item. Copies of the Item were provided to the Committee Members and are maintained in Authority records. Details of the Committee Members discussion with staff are included in the video recording of and maintained by the Authority.

Upon motion duly made and seconded, the Governance Committee approved the Review and Approval of Real Property Management Policy, Personal Property Disposal Policy, Procurement Contracts Policy, Whistleblower Policy, Code of Ethics Governing Employees, and Code of Ethics Governing Board Members and authorized their submission to the Authority Board for consideration.

### **Adjournment**

There being no other business to come before the Governance Committee, upon motion duly made and seconded, the meeting was adjourned at 1:40 p.m.

*Note: Webcasts, which include dialogue of Authority Board Meeting, are available on the Thruway Authority website 48 hours after such meetings occur and remain on the website for a period of four months.*

TO: The Thruway Authority Governance Committee

FROM: Erika Beardsley  
Director of Strategic Center of Excellence

SUBJECT: Approving the Thruway Authority Strategic Plan

Presented for approval of the Governance Committee is the Authority's 10-year Strategic Plan. As a part of the Vision Forward program to help the Authority reach its goals and modernize operations and business processes, Authority staff from all over the organization met every other week over several months to develop the organization's strategic goals over the next 5-10 years. These discussions involved six operating principles, including safety, operational excellence, customer service, infrastructure integrity, fiscal responsibility, and environmental stewardship. The executive leadership team met bi-weekly to review the overall results of the department and division meetings to provide support of the goals moving forward into the strategic plan.

The Authority developed goals for each of the operating principles. The seven (7) safety goals focus on the Authority's commitment to safety and target both the driving public and Authority employees. Additionally, the Authority will look to collaborate with state agencies to develop strategies and campaigns designed to reduce traffic incidents. There are nine (9) operational excellence goals to improve internal operations, resource allocation, and cybersecurity framework. These goals will help the Authority deliver reliable, modern, streamlined internal services. For the Authority to meet customer needs and continually improve services and customer experience, the strategic plan identifies four (4) goals for customer service.

The integrity of the Thruway system requires asset management to ensure the timely and high-quality implementation of critical projects for the maintenance and improvement of infrastructure. Further, the Authority's technology and digital infrastructure is critical for Vision Forward and innovation. The Authority has identified twelve (12) goals for infrastructure integrity. Four (4) fiscal responsibility goals have been identified to address changing fiscal needs of the organization. Maintaining the Thruway system in an environmentally sustainable way is the Authority's final focus area with five (5) goals supporting the National Electric Vehicle Infrastructure plan and Executive Order 22.

The Strategic Plan, attached as Exhibit A to this item, will help the Governance Committee and the Board in its annual re-examination of the Authority's mission statement and the measurements by which performance of the Authority and achievement of its goals may be evaluated, and its annual publication of a self-evaluation based on the stated measurements pursuant to of the Public Authorities Law §2824-a.

**RECOMMENDATION:**

It is recommended that the Governance Committee approve this item and authorize Authority staff to present this item to the Board.

# NEW YORK STATE THRUWAY AUTHORITY STRATEGIC PLAN

2023 - 2033

*A roadmap for  
maintaining  
**OPERATIONAL  
EXCELLENCE**  
over the next decade*



**Thruway  
Authority**

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Since the first tolls were collected on the Thruway in 1954, the Thruway Authority has provided a safe, reliable superhighway for millions of customers every year.

The 570-mile system supports a variety of travelers including commuters, business travelers, recreational travelers and commercial vehicle traffic that transports goods throughout the state. The Thruway provides a dependable roadway system for travelers sustaining and encouraging economic growth, fostering job creation, and generating tax revenues for the state and its local governments.

In November 2020, the Thruway Authority completed a system-wide conversion to cashless tolling, ending nearly 70 years of cash toll collection. Cashless tolling has impacts throughout the Authority and requires a review and modernization of operations, business processes and technology.

Over the last year, NYSTA has taken a number of steps towards modernizing and aligning the organizational structure and resource allocation with the realities and customer expectations of the 21st century. A central part of this effort has been to develop the Thruway Authority's 10-year Strategic Plan. This plan is firmly aligned with the Authority's Mission, Vision, Guiding and Operating Principles. The plan identifies our goals over the next decade and what managers/departments can do to measure our progress towards those goals. This cohesive plan specifically focuses on safety, operational excellence, customer service, infrastructure integrity, fiscal responsibility, and environmental stewardship to bring the Authority into the future.

The strategic plan was developed collaboratively including all departments to ensure the Authority's strategic goals over the next ten years are shared and supported. Throughout the development departments determined the actions necessary to achieve those goals, establish a timeline, and mobilize resources to execute the actions.

The strategic plan is a critical component of the Vision Forward project and the Authority's long-term success and sustainability. I want to thank all of the employees who participated in the discussions with the Center of Excellence team and assisting in the creation of the Strategic Plan. I am confident we will continue this momentum with the support of our dedicated team of employees.



*"The Strategic Plan is a critical component of the Vision Forward project and the Authority's long-term success and sustainability."*

*Frank G. Hoare  
Acting Executive Director*

# Executive Summary

The New York State Thruway Authority (Authority) developed this Strategic Plan from collaborative meetings with Department and Division representatives along with the Executive and Senior Leadership Team. The Authority recognizes that to remain a successful toll-funded transportation organization into the future, we must continuously explore innovative infrastructure design ideas and improve our technology, while simultaneously adopting and implementing customer service best practices. We are committing to six focus areas through 2033 in support of our mission of operating and maintaining a reliable, user-fee supported superhighway delivering high levels of safety and service. These focus areas are Safety, Operational Excellence, Customer Service, Infrastructure Integrity, Fiscal Responsibility and Environmental Stewardship.

The Authority's Strategic Plan includes specific goals, objectives and measures designed to advance the organization's mission to become the safest and most reliable user-fee supported superhighway in the world. We will evaluate our progress annually using the measures established within. The Strategic Plan will create accountability to our customers and stakeholders and help us foster a continuous improvement mindset.

## Our Fundamental Goals:

- *Optimize our resources to meet current and future service delivery needs*
- *Explore new revenue sources to fund capital and operating needs*
- *Create an environment for diversity and inclusion to flourish*
- *Deliver services that continuously improve customer experience*
- *Foster and promote teamwork that is consistent with our operating principles*
- *Focus and support systematic, data-driven decisions*





# What We Do

# What We Do

## *Mission, Vision, Guiding and Operating Principles*

### Mission

The NYS Thruway Authority operates and maintains a reliable, user-fee supported superhighway delivering high levels of safety and service.

### Vision

To operate and maintain an essential transportation corridor that supports and enhances economic activity, by reliably delivering high levels of safety, convenience, and service while modernizing to meet dynamic customer and partner needs in a financially responsible manner.

### Guiding Principles



**Safety** – Ensure safety and security are always at the core of everything we do.



**Operational Excellence** – Deliver reliable, modern, streamlined operations (internal service mindset) and maintain financial self sufficiency.



**Customer Service** – Meet customer needs and continually improve services and the experience for our customers.



**Infrastructure Integrity** – Manage assets to ensure the timely and high-quality implementation of critical projects for the maintenance and improvement of infrastructure.

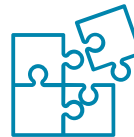


**Continuous Improvement** – Consistently measure performance and pursue innovative ways of working more effectively and efficiently.



**Environmental Stewardship** – Act in an environmentally sustainable manner in operating and maintaining the Thruway

### Operating Principles



**Support & Value** – We treat all employees with respect and dignity – understanding they are the foundation of the organization.



**Collaboration** – We work across departments to drive quality outcomes effectively and efficiently.



**Integrity** – We act ethically and do the right thing while delivering on our commitments.



**Innovation** – We pursue and consider all ideas, and leverage 21st Century Technology for new ways of working with and for our customers.



**Diversity & Inclusion** – We create and sustain an environment in which people from diverse backgrounds and perspectives can grow, develop, and succeed.





# Who We Are

# Our History



The Governor Thomas E. Dewey Thruway, built in the early 1950s, is one of the oldest components of the National Interstate Highway System and one of the longest toll roads in the nation. It set the standard for modern highway geometric design with safe roadway characteristics including smooth curves, wide medians, and unobstructed driver sight distances.

For more than 60 years, the Thruway system has been essential for commerce and travel in the Northeast. About one-third of all vehicles using the Thruway are from out of state. The Thruway System also plays a vital role in New York State's economy. This 570-mile superhighway, with 815 bridges, 118 interchanges and 27 service areas, connects New York's principal cities, rural areas, and tourist destinations.

The mainline of the Thruway extends 426 miles, from New York City to Buffalo (I-87 and I-90). Other elements of the system include the New England Thruway (I-95), the Cross Westchester Expressway (I-287), the Garden State Parkway Connector, the Berkshire Connector (I-90), the Niagara Thruway (I-190), and the Erie Section (I-90).

The Thruway converted to an entirely cashless tolling system in November 2020.





# Economic Impact

The New York State Thruway plays a critical role in the regional economy. It serves as a vital link between major cities, connecting the Eastern Seaboard with Canada and the Great Lakes. With an average of 20.5 million vehicle-miles per day and approximately 7.5 billion vehicle-miles traveled in 2021, the Thruway traverses 37 of the state's 62 counties and the majority of its population.

The economy of New York State depends upon the safe, efficient, and reliable transportation of goods to remain competitive. As the primary corridor for moving freight in the state, the Thruway fills this need, supporting more than three million jobs and impacting employment across multiple sectors. The Thruway links all of New York State's major urban areas, forging strong supply chains between manufacturers, retailers, and consumers. In many communities along the Thruway, agriculture is the primary source of economic activity. Whether dairy, apples, grapes, or other perishable commodities, the Thruway helps to bring locally farmed goods to buyers across the Northeast and beyond.

The Thruway connects New York State businesses to markets across the globe, linking highways, railways, canals and airports in a statewide transportation network that moves more than \$2.3 trillion of goods annually. Nearly two-thirds of the freight that moves within New York State's transportation network is through-traffic, having both an origin and destination outside of the state. As a major interstate corridor with connections to Canada, four neighboring states, and the greater New York City metropolitan area, the Thruway serves as a gateway to wider regional and global economies.

The Thruway also plays a vital role in promoting tourism and recreation. More than 256 million tourists visit New York State every year, with an estimated economic impact of more than \$117 billion for businesses and communities in every part of the state. The Thruway allows visitors to access destinations as diverse as Niagara Falls and Times Square to the scenic Adirondacks and the State Fair. Its extensive reach, efficient connectivity, and strategic placement make it an economic lifeline, driving the overall prosperity of New York State.

- **20.5 MILLION** vehicles per day
- **7.5 BILLION** miles traveled per year
- Traverses **37 COUNTIES**
- Supports transportation network that moves **MORE THAN \$2.3 TRILLION** of goods annually
- Connects tourists to diverse locations across the state

# Members and Officers

The Authority is comprised of a seven-member board of directors appointed by the Governor with the advice and consent of the State Senate. Board members serve for terms of nine years each. Pursuant to the New York State Public Officers Law, members of the Authority whose terms have expired continue to serve until a successor is appointed and qualified. The Chair serves in that capacity for the full term of his/her appointment as a member of the Authority Board. The members of the Authority Board may appoint other officers. The present members of the Board are as follows:



**Joanne M. Mahoney,**  
Chair, Board of  
Directors



**Robert L. Megna,**  
Vice-Chair



**José Holguín-Veras,**  
Ph.D., P.E., Member



**Heather C. Mulligan,**  
Esq., Member



**Norman H. Jones, Sr.,**  
Member

**The present officers of the Authority are as follows:**

**Joanne M. Mahoney – Chair, Board of Directors**

**Robert L. Megna – Vice Chair**

**Frank Hoare – Acting Executive Director**

**David Malone – Treasurer**

**Keith Fragomeni – Assistant Treasurer**

**Juliane Greco - Secretary**

**Jerry B. Yomoah – Assistant Secretary**



# OUR ORGANIZATION

# Organization

**The Authority is a public benefit corporation responsible for the financing, construction, operation, maintenance, and improvement of the New York State Thruway. The Authority is organized into 13 functional areas.**

## **Administrative Services**

The Department of Administrative Services provides support to all Departments in the Authority's Administrative Headquarters, as well as the four Divisions in the areas of Personnel (Staffing Services and Benefits Administration), Training and Employee Development, Equal Employment Opportunity and Diversity, Labor Relations and Employee Safety, Administrative Analysis, and Office and Building Maintenance Services.

## **Audit and Management Services**

The Department of Audit and Management Services is responsible for performing independent audits, reviews and analyses of all Authority operations; conducting confidential investigations to detect and prevent fraud, waste, and abuse; promoting security and protection of Authority employees, customers and assets which includes the Governor Mario M. Cuomo Bridge; ensuring compliance with the New York State Governmental, Accountability and Internal Control Act; and other requested services from the Thruway Authority Board and Executive Management.

## **Board and Executive**

Board and Executive is responsible for the overall executive management of the Authority. It includes the Thruway Authority Board of Directors, which consists of seven unsalaried members, the Executive Director, Chief of Staff, and support personnel.

## **Engineering**

The Department of Engineering, led by the Chief Engineer, and comprised of Headquarters and Division staff, is responsible for the engineering needs of the Authority. These functional areas of the Department all work collectively to develop and implement the Capital Program, starting with planning and program development, through project inception and design, to construction completion. The Engineering Department also supports the Department of Maintenance and Operations, at both the Headquarters and Division levels. The Department executes the Capital and Contracts Programs in consultation with the appropriate Thruway Offices and Divisions.



# Organization

## **Finance and Accounts**

The Finance Department is responsible for managing and reporting on the Authority's financial matters. This includes receiving, recording, reconciling and reporting of all Authority revenues, establishing and maintaining a budget including the capital plan, and implementing appropriate controls on the approval of expenses. The Department ensures compliance with all financial requirements, manages the Authority's resources, structures financial plans to maintain debt service coverage, and works with all Departments to manage costs. Overall financial policies and reporting requirements are dictated by the terms of the Authority's bond resolutions and are mandated by statute or Executive Order. The Finance Department is also responsible for issuing and managing debt, as well as financial and reporting covenants of the Authority's fiscal management guidelines and bond resolutions.

## **Information Technology**

The Information Technology (IT) Department is responsible for managing the Authority's computing resources and infrastructure including the fiber optic communications network, data centers, cloud computing, Intranet and Internet services, video and telecommunications systems, GIS, intelligent transportation systems, security systems, and the use of all computers, software, and technology hardware as well as the storing, retrieving, and transmission of the electronic data of the Authority. IT also develops and maintains financial & HR systems, business systems, engineering systems, network systems, designs, builds and maintains all barrier toll systems and equipment, and supports Federal Communications Commission licensing, the Governor Mario M. Cuomo Bridge systems, and all desktop, laptop, modems, wireless phones, wi-fi, video solutions, and iPad devices. Moreover, IT developed and manages the Thruway Mobile App.

## **Legal Department**

The Legal Department is responsible for providing legal advice and services to the Board, Executive Director and the Authority. The Legal Department handles litigation, claims against or by the Authority, Freedom of Information Law (FOIL) requests, legislation, real property transactions, ethics, employment law, governance issues, supervision of outside counsel services and research as requested. The Legal Department is involved with every aspect of the Authority's functions.

## **Maintenance and Operations**

The Department of Maintenance and Operations establishes budgets, priorities and performance standards for maintenance activities for the highway, bridge and facilities infrastructure, as well as the motorized, toll and ITS equipment owned and operated by the Authority. The Department includes four Divisions – Albany, Buffalo, New York and Syracuse. Whether repairing bridge and highway infrastructure, maintaining vehicles and construction equipment, or electronically collecting toll revenue, employees work to ensure safe and reliable travel for patrons and commerce each day. The Authority's winter maintenance program is implemented in the Divisions with overall program direction provided by Headquarters staff. The Department works in collaboration with the Department of Engineering and the Department of Finance to develop the Authority's multi-year Capital Program. This effort involves project initiation, prioritization and programming of capital work for the entire Thruway system.

# Organization

## **Maintenance and Operations continued**

The Department is also responsible for the Travelers' Services program, which manage contracts that operate 27 Service Areas and 3 Welcome Centers throughout the system. In addition, Maintenance and Operations includes the Office of Emergency Management, Communications and Traffic Management. The Emergency Management Office is responsible for the Authority's emergency response and incident management activities; Thruway Statewide Operations Center (TSOC) which is a twenty-four hour a day modified 911 center; and administration of the authorized towing and tandem truck permit programs. The Department acts as a liaison with the New York State Police Troop T, whose 320 members patrol the Thruway.

## **Office of Media and Government Relations**

Media and Government Relations offers streamlined intra- and inter-agency communications. The office works closely to deliver effective strategic messaging to statewide and municipal elected officials, government entities and media outlets in New York State and beyond.

## **Procurement Services**

The Department of Procurement Services oversees the Compliance Unit (implementing, monitoring and providing business diversity program oversight in accordance with State and Federal laws, rules, regulations and Executive Orders); Purchasing Management (insuring goods and services are procured at the right time at the right price); and Capital and Contracts Management, (executing and amending construction contracts and engineering agreements), all to support Authority operations and capital investments into the system.

## **Revenue Management**

The Department of Revenue Management is responsible for the overall operations and health of revenue collection, in all areas including electronic tolling, the tolls by mail program, the Commercial Charge Account program, and toll systems quality assurance. Revenue Management prides itself on exceptional customer service, employs proven violation enforcement initiatives and facilitates proactive quality control measures to provide critical service and support to the Authority.

## **Strategic Center of Excellence**

The Strategic Center of Excellence leads the development and manages the long-term strategic plan in conjunction with the capital plan and in coordination with the various departments and divisions of the Authority. The Strategic Center of Excellence manages special projects including completion of short, medium and long-term initiatives, and also coordinates change management activities, communication, training, readiness for key projects and initiatives with the appropriate stakeholders and change management teams. In addition, the Strategic Center of Excellence will monitor performance indicators to measure initiative impacts, identify new initiatives, and proactively detect potential risks and issues.

# Executive Team

The present members of the executive team are as follows:



**Frank G. Hoare**  
Acting Executive Director,  
General Counsel



**Jim Konstalid**  
Director of  
Maintenance and  
Operations



**Erika Beardsley**  
Acting Director of the  
Strategic Center of  
Excellence



**Matthew Trapasso**  
Chief of Staff



**Philip Serafino**  
Division Director  
(Albany)



**Thomas McIntyre**  
Deputy Executive  
Director of Operations  
and Special Projects



**Matthew Latko**  
Division Director  
(Buffalo)



**Selica Y. Grant, Esq., CDE**  
Acting Director of  
Administrative Services



**Mary Boehm**  
Director of Audit and  
Management Services



**Brent Howard**  
Division Director  
(New York)



**Diana Nebiolo**  
Acting Director of  
Revenue Management



**Richard Lee, P.E.**  
Chief Engineer



**Patrick Hoehn**  
Division Director  
(Syracuse)



**David Malone**  
Chief Financial Officer



**Jennifer Givner**  
Director of Media  
Relations



**Juliane Greco,**  
Board Administrator,  
Secretary



**Josh Klemm**  
Chief Information Officer



**Andy Trombley**  
Acting Director of  
Procurement Services

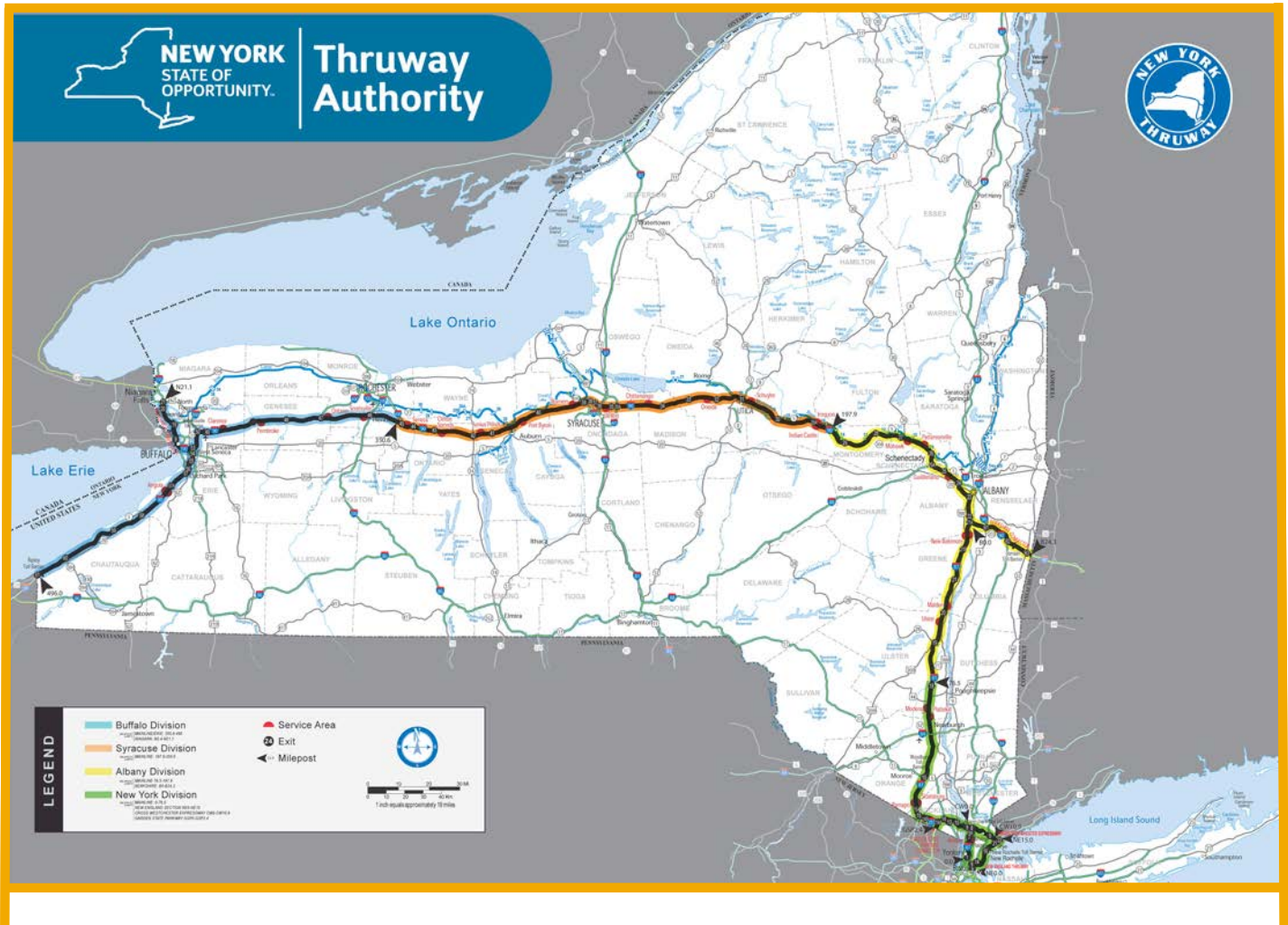




# BY THE NUMBERS

# By the Numbers

*New York State Thruway Authority statistics as of September 2022.*



## Seven Sections:

- 2,843 Lane Miles
  - Over 570 Total Miles
  - 134 Interchanges
  - 815 Bridges
  - 27 Service Areas
- The Mainline (New York to Buffalo)  
 Erie Section (Buffalo to Pennsylvania Stateline)  
 Niagara Section I-190 (Buffalo to Niagara Falls)  
 Berkshire Section (Selkirk, NY to Massachusetts Line)  
 New England Section (I-95) (Bronx-Connecticut Line)  
 Garden State Parkway (Spring Valley, NY to New Jersey Stateline)  
 Cross Westchester Expressway (I-287) (Mainline I-87 in Tarrytown to I-95 in Rye)



# Facilities

- 234 section maintenance and storage building
- 66 salt sheds
- 161 Operational Service Area Buildings (including water and wastewater buildings)
- 3 New York State Welcome Centers
- Port Byron Old Erie Canal Heritage Park Visitors Center
- 21 State Police barracks
- 33 Radio Shelter buildings
- 35 Tandem Areas





# Finances

## 2022 Annual Operating Revenue - \$899.9 million

- 366 million Toll Revenue Transactions
- 7.721 billion miles/Revenue Trips
- 21.15 million vehicle miles per day

## Fiber Infrastructure:

- 500 miles
- 6 ducts
- 418 cables along the Right of Way
- 14 regeneration facilities

## 2022 Overall spending- \$1.0 billion

- \$1.9 Billion 5-year Capital Spending (2023-27)
- \$377.8 million Operating expenses and Provisions
- \$281.8 million Capital projects
- \$66.2 million NYSP Troop T Patrol
- \$308.0 million Debt Service



# Finances

## General Revenue Bonds and Notes

MOODY'S	S&P
A1 (Stable) uninsured	A (Stable) uninsured
A2 insured (Assured Guaranty Municipal – formerly FSA)	AA insured (Assured Guaranty Municipal – formerly FSA)

## Debt Outstanding (as of 04/03/2023)

SERIES	AMOUNT	INSURER
Series J	\$560,055,000	Uninsured
Series K	\$629,375,000	Assured Guaranty Municipal – formerly FSASeri
Series L	\$401,960,000	Uninsured
Series M	\$857,625,000	Uninsured
Series N	\$450,000,000	Uninsured
Series O	\$540,090,000	Uninsured
<b>Total</b>	<b>\$3,439,105,000</b>	<b>Portions of each series are insured, unless otherwise noted.</b>

## General Revenue Junior Indebtedness Obligation Bonds and Notes

MOODY'S	S&P
A2 (Stable) uninsured	A- (Stable) uninsured
A2 insured	AA insured

## Debt Outstanding (as of 04/03/2023)

SERIES	AMOUNT	INSURER
Series 2016A	\$849,250,000	Uninsured
Series 2019B	\$1,690,435,000	Assured Guaranty Municipal Corp.
<b>Total</b>	<b>\$2,539,685,000</b>	



# STRATEGIC PLANNING

## STRATEGIC PLANNING FOCUS AREAS



# Safety

**Principle: Ensure SAFETY and SECURITY is at the core of everything we do.**

The Authority is committed to delivering new and improved safety technologies, data-driven metrics, and innovative highway design standards and solutions that reduce collisions, injuries and fatalities on our roadways. Our workforce is the key to adopting and implementing a safety-centered culture.



Overall, with a systematic safety management approach, the Authority can ensure the safety and well-being of its dedicated workforce and the highway system users. By identifying and addressing potential risks and hazards, the Authority's approach will help prevent crashes and injuries, and promote a safer, more productive environment.

## Strategic Goals

- Reduce the 5-year rolling average of fatalities and injuries
  - 5 year rolling average from 2017-2021
    - Number of fatalities – 21
    - Rate of fatalities per 100 million Vehicle Miles Traveled – 0.25
    - Number of serious injuries – 1384.6
    - Rate of Serious Injuries per 100 million Vehicle Miles Traveled – 5.53
- Decrease the number of recordable employee injuries
  - Reduce employee Health and Safety recordable incidents by 40% by 2033 (including worker's comp cases/days lost), 4% annually
- Increase best in class training opportunities to all employees and contractors
  - Evaluate current safety and equipment training and establish competencies to enhance the safety program and meet industry best practices by 2025 and review annually
  - All Thruway employees trained in safety best practices by 2026
  - Create a leadership training program for career development
  - Train 100% of all Thruway employees in cybersecurity best practices and awareness by 2025 and mature programs thereafter
- Reduce the number of traffic-related work zone incidents
  - Reduce annual traffic-related work zone incidents by 20% by 2028 from the 2023 incident count

# Safety

- Continue implementing current state and federal design standards on all construction projects to meet to or exceed the minimum design standards for high-volume interstate highways
- Collaborate with state agencies including NYS State Police (NYSP), Office of Cannabis Management (OCM), Office of Addiction Services and Supports (OASAS), Office of Mental Health (OMH), Department of Motor Vehicles (DMV) and the Governor's Traffic and Safety Committee (GTSC) to develop strategies and campaigns designed to reduce traffic incidents
- Develop roadmap for centralizing safety data



## Objectives:

- Improve employee recognition, value, and enable empowerment to make decisions
- Improve on-going information sharing and cross-collaboration opportunities (process, function, level) to increase communication and institutional knowledge
- Optimize level of communication through the right channels, platforms, and people
- Develop robust training and leadership development program to increase skills
- Increase time allocation for training and development
- Implement training platform to improve end user training and awareness
- Deliver user training for new and existing technologies
- Develop a training strategy and create regular check-ins between HQ and Divisions
- Partner with other state agencies (e.g., DMV, GTSC, OASAS, OCM, NYSP, OMH, etc.) to develop campaigns designed to reduce traffic incidents
- Redesign the safety incentive program to account for employee safety

## Measures:

- Fatalities per vehicle miles traveled
- Crashes per vehicle miles traveled
- Annual average work zone crashes
- Secondary crashes per year
- Personnel incidents per year / days lost
- Employee safety training hours



# Operational Excellence



**Principle: Deliver **RELIABLE, MODERN, STREAMLINED** operations with an internal service mindset.**

The Authority aims to drive organizational excellence in the way we manage and operate the superhighway. Operational excellence refers to the efforts of an organization to continuously improve its performance and achieve long-term success. Organizations that strive for excellence are committed to creating a culture of continuous improvement, innovation, financial sustainability, and effectiveness. To achieve organizational and operational excellence, the Authority must focus on a variety of areas, including leadership development, strategy, employee engagement and development, continuous learning, and business continuity. Some key practices that can contribute to organizational excellence include setting clear goals and objectives, measuring and tracking performance, using data to inform decision-making, and continuously seeking ways to improve processes and practices.

The Authority must also stay up to date with the latest technological developments and to be prepared for the transition to a fully digital era. This involves investing in digital infrastructure and adopting modern technologies that can improve efficiency, reduce costs, and enhance the customer experience. For the Thruway system, this includes upgrades to electronic toll collection and intelligence transportation systems, using data analytics to optimize route planning and traffic management, expanding drone usage for operational excellence and preparing for the deployment of connected and autonomous vehicles. By staying ahead of the curve and embracing digital technologies, the Authority can ensure that it is well-positioned to meet the needs of employees and travelers in the future and continue to serve as a critical transportation corridor.

## Strategic Goals:

- Improve workforce management by developing a human capital plan that meets the future needs of managing a superhighway system
  - Perform staffing needs assessment in each Division and Department and staff to those levels by 2027
  - Reduce turnover rate by 20%
  - Create comprehensive succession planning for each Department and Division by 2028 and review annually thereafter
- Design a hiring review tool/system that is aligned with financial and enterprise resource management systems
- Implement employee surveys and process to address issues
- Institutionalize a management system that prioritizes employee performance and alignment with the authorities guiding and operating principles
- Allocate new state-of-the-art resources to maximize toll collection

# Operational Excellence



- Develop an Authority-wide cybersecurity framework
- Meet Cybersecurity Infrastructure Security Agency (CISA) standards for the transportation sector by 2025 and review compliance annually
  - Perform application rationalization and document a plan to address legacy system by 2023
  - Establish and document framework to address system/software vulnerabilities by 2024
- Deploy hardware and software needed to enable access and modernize workforce by 2024
- Reduce material procurement process timeframe from 12 months to 6 months by 2025

## Strategic Objectives:

- Increase networking opportunities to foster communication and establish quarterly meetings.
- Improve technology provisioning process/policy for both onboarding and future needs.
- Create onboarding process portal for Authority staff
- Improve off-boarding process for Authority staff
- Document all processes and update policies to capture institutional knowledge
- Document succession planning activities
- Update strategic sourcing options that better support Divisions
- Modernize or eliminate duplicative policies
- Create planning and execution of digital playbooks so that staff can navigate procedures for every department
- Increase capabilities to establish metrics and monitor performance
- Measure and improve employee satisfaction
- Holistic policy review
- Create and implement IT policies for Personal Mobile Device Policy, Computer/Hardware, Technology Procurement, Digital, and Help Desk

## Measures:

- Policy review cycle
- Key processes mapped
- Retention rate
- Toll revenue
- Performance evaluations
- Job satisfaction
- Percent of identified jobs with potential successors
- Percent of identified jobs that are subsequently filled with internal hires
- Number of job offers made and accepted to external candidates
- Time to fill positions with external candidates



# Customer Service



**Principle: MEET THE NEEDS and CONTINUALLY IMPROVE services and the experience for our customers.**

The Authority is dedicated to providing exceptional internal and external customer service to our stakeholders. We understand that our internal customers, including our employees, and external customers such as the traveling public, contractors and agency partners, are critical to the success of our organization. The pace at which the Authority processes transactions and works collaboratively through challenges will ultimately add value for the customer. To meet the customer service principle, it is most important for the Authority to listen to the voice of the customer and develop operations to meet their needs.

## Strategic Goals:

- Respond to 85% of escalated customer inquiries or complaints transferred from the contracted call center within 3 business days by 2025
- Create and foster data driven communication throughout the organization by end of 2023
- Establish service catalogs by department by 2024
- Improve the 'look and feel' of the Authority website and offer upgraded customer service tools by 2025

## Objectives:

- Provide accurate, timely, and transparent information to our internal and external customers through various channels such as website, phone, social media, regular meetings, newsletters, and intranet updates
- Provide our customers with enhanced payment options meeting industry standards
- Foster a culture of open communication and active listening, encouraging feedback, and suggestions for improvements, creating a larger sense of belonging and collaboration within our workforce
- Enhance our robust customer service program by providing responsive and knowledgeable support to our customers through various channels such as chatbots, phone, email, and social media
- Continuously gather customer feedback, measure customer satisfaction and work on necessary improvements, making sure we are responsive and adaptable to the changing needs of our customers

# Customer Service

- Establish two-way communication between stakeholders and procurement to improve collaboration among Departments
- Formalize the policy implementation process to ensure staff are knowledgeable and trained on procedures



## Measures:

- Customer Inquiries statistics
- Website Traffic
- The Thruway Authority customer service team customer wait time, response time, quality to customer inquiries
- Status of Service Catalogs
- E-ZPass/Tolls-by-Mail Customer Service Satisfaction Survey results
- Uptime of service areas/bathrooms/fuel services
- Number and amount of time for lane closures for crashes or pothole repair/rather than major work





# Infrastructure Integrity

**Principle: Manage assets to ensure the **TIMELY** and **HIGH-QUALITY** implementation of critical projects for the maintenance and improvement of infrastructure.**

To address current and future infrastructure needs, the Authority has established a new Capital Planning Playbook that includes a project pipeline with projects identified in the out-years of the plan that may be accelerated based on priorities and resource availability.

The Authority will conduct a full needs assessment to identify requirements throughout the entire organization and prioritize physical assets, including bridges, pavement, buildings, gantry systems, fleets and equipment. The assessment involves identifying the most cost-effective and efficient ways to maintain, repair, and replace assets to meet the needs of the system. Asset management requires a combination of engineering and maintenance expertise, as well as identifying fiscal impacts to make informed decisions about the cost-benefit of various actions that extend the life cycle of our physical assets

## Strategic Goals:

- Reach 100% of the letting goal for Capital Plan projects by 2025
- Increase capital plan project pipeline to include full scope and estimates
- Develop/document a comprehensive full needs assessment process and establish an annual review schedule
- Continue to evaluate planning and design of projects to assess resiliency to natural and man-made events
- Planned capital projects include evaluation of sustainability and future needs of the roadway





# Infrastructure Integrity

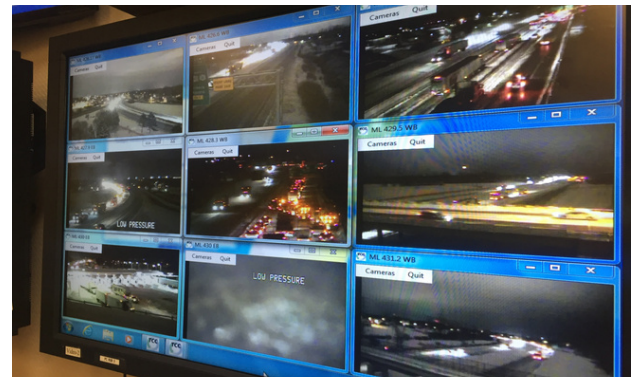


## Physical Infrastructure:

- Ensure all Thruway bridges are at an average rating of 5 (good condition) or higher according to the General Recommendation Guidelines by 2033
- Develop and implement appropriate long-term plans for all Thruway roadway sections that are projected to drop by a score of 40 (very poor condition) on the Lane Distress Index (LDI) by 2024
- Increase the average Lane Distress Index (LDI) of all roadway sections to a rating of 60 (fair condition) or higher by 2033
- Develop bridge hit prevention strategies by 2025 with full implementation by 2028

## IT/Digital Infrastructure:

- Implement and adhere to a five-year refresh cycle on non-end-user devices by 2025
- Implement and adhere to a four-year refresh cycle on end-user devices by 2025
- Ensure High Availability solutions meet corresponding RPO/RTO of the systems by 2024



## Objectives:

- Allocate resources to identify a 20-to-30-year infrastructure needs assessment that meets FHWA's standards and requirements
- Allocate resources to develop a transportation asset plan
- Imbed life cycle cost planning and analysis into capital planning and project delivery
- Imbed climate change resiliency into investment and planning processes
- Identify strategies to delegate authority to the four divisions with the aim of streamlining decision making in the areas of capital planning, maintenance activities, resource allocation and procurement
- Allocate at least \$50M annually to full depth roadway reconstruction

# Infrastructure Integrity

- Embed climate change resiliency into investment and planning exercises
- Review and improve non-bridge and non-road capital projects prioritization process and incorporate into the Capital Plan
- Adopt a preservation or maintenance-first approach for bringing all asset classes to a state of good repair (pavement, bridges, culverts, fiber optic network, business/IT systems, ITSM)
- Implement enhanced and automated E-ZPass reports.
- Create visualizations that include the entire system's assets and status.



## Measures:

- Availability of operational mission-critical application
- Condition of Information Technology assets
- Cyber Security best practices
- IT infrastructure best practices
- Bridge rating trends based on General Recommendation ratings scale of 1 (deteriorated) to 7 (new condition)
- Roadway rating trends based on Lane Distress Index (LDI) on a scale of 0 (very poor) to 100 (excellent) and International Roughness Index (IRI) ratings on a scale of 240 inches per mile (poor) to 0 inches per mile (very good)
- Percentage of capital funds for major work compared to pothole or short-term repairs
- Timing of capital plan awards
- Accuracy of estimates to final bills
- Number and impact of bridge hits

# Fiscal Responsibility



**Principle: Managing the Authority's financial affairs in a **RESPONSIBLE** manner by making sure available funds are allocated to the **HIGHEST PRIORITIES** of the organization, by forecasting and managing revenues, capital funding levels, daily operating expenses, risk management efforts and assessing future financing needs.**

The Authority is committed to responsible fiscal management practices to ensure the long-term sustainability of the organization. Using the Life Cycle Planning methodology for capital planning and project prioritization allows Authority decision makers to identify the most cost-effective options for maintaining and upgrading assets over their lifetime. Utilizing this technique can help to avoid unnecessary expenses and ensure funds are being used in the most efficient way possible. Additionally, forecasting and managing toll revenues to ensure they can sufficiently cover the costs of operating, maintaining, and upgrading all Thruway assets will optimize financial sustainability.

The Authority has established sound financial decision-making process and bond repayment plans that support investing in capital projects such as pavement renewal and rehabilitation, bridge replacements and repairs, and the upgrading of tolling equipment, operational and maintenance facilities, fleet and other assets. Further, the Authority will be establishing an Enterprise Risk Management program to help us identify and mitigate emerging risks that could have negative impacts to financial and operational performance.





# Fiscal Responsibility



## Strategic Goals:

- Receive an increased bond rating by 2026
  - Increase Days Cash on Hand to 550 by 2030
- Expend 100% of money annually allocated for capital projects by 2026
- Diversifying revenues through expanded permitting and use of Right of Way (ROW) (ex. Cell towers, fiber, solar and other power)
- Review Toll Collection, Reporting, Analysis and Accounting activities to reduce unpaid and unbillable transactions by 3% over five years

## Objectives:

- Monitor & enforce reporting lead times with contracted vendors
- Implement new tolling technology and approach for toll collection and reporting

## Measures:

- Credit Ratings
- Debt Service Ratio
- Operations & Maintenance operational cost per lane mile for
- Capital Budget
- Percentage of Capital Projects let by original date
- Speed of billing compared to speed of payment
- Number of suspensions



# Environmental Stewardship

Principle: Act in an **ENVIRONMENTALLY SUSTAINABLE** manner in operating and maintaining the Thruway.

The Authority recognizes the importance of protecting the environment and preserving natural resources for future generations. The Authority will implement a range of initiatives, including adding more hybrid and zero emission vehicles to our light and medium/heavy duty fleets and incorporating idle reduction technology on our vehicles. We will implement energy efficiency measures at our buildings and facilities, reduce waste generation through sustainable materials management and incorporate resiliency principles into all capital and financial planning efforts. The Authority will continue ongoing sustainability projects such as the living snow fence as an alternative to plastics and promoting wildlife conservation efforts in the Thruway Right of Way.

By implementing these practices, the Authority will reduce its environmental impact and promote conservation of natural resources, while saving money and cultivating a healthier workplace for employees and a sustainable superhighway for the traveling public.

## Strategic Goals:

- Incorporate climate sustainability strategies in infrastructure design planning by 2028
- Increase usage of Authority's Right of Way and Facilities for Sustainable Development by 2033
- Increase charging capabilities along the Thruway corridor consistent with the National Electric Vehicle Infrastructure plan by 2030
- Meet Executive Order 22 standards within established timeframes
- Decrease energy utilization at each facility (excluding charging station usage) by 2033





# Environmental Stewardship



## Objectives:

- Assemble a taskforce to evaluate Right of Way opportunities for sustainability
- Ensure customers have access to charging stations at service areas
- Develop a roadmap for level 3 charging and medium/heavy duty conversion

## Measures:

- Percentage of LED lighting
- Percentage of ZEV or hybrid vehicles
- Facility condition
- Maintenance equipment condition
- Energy usage data
- Renewable energy percentages

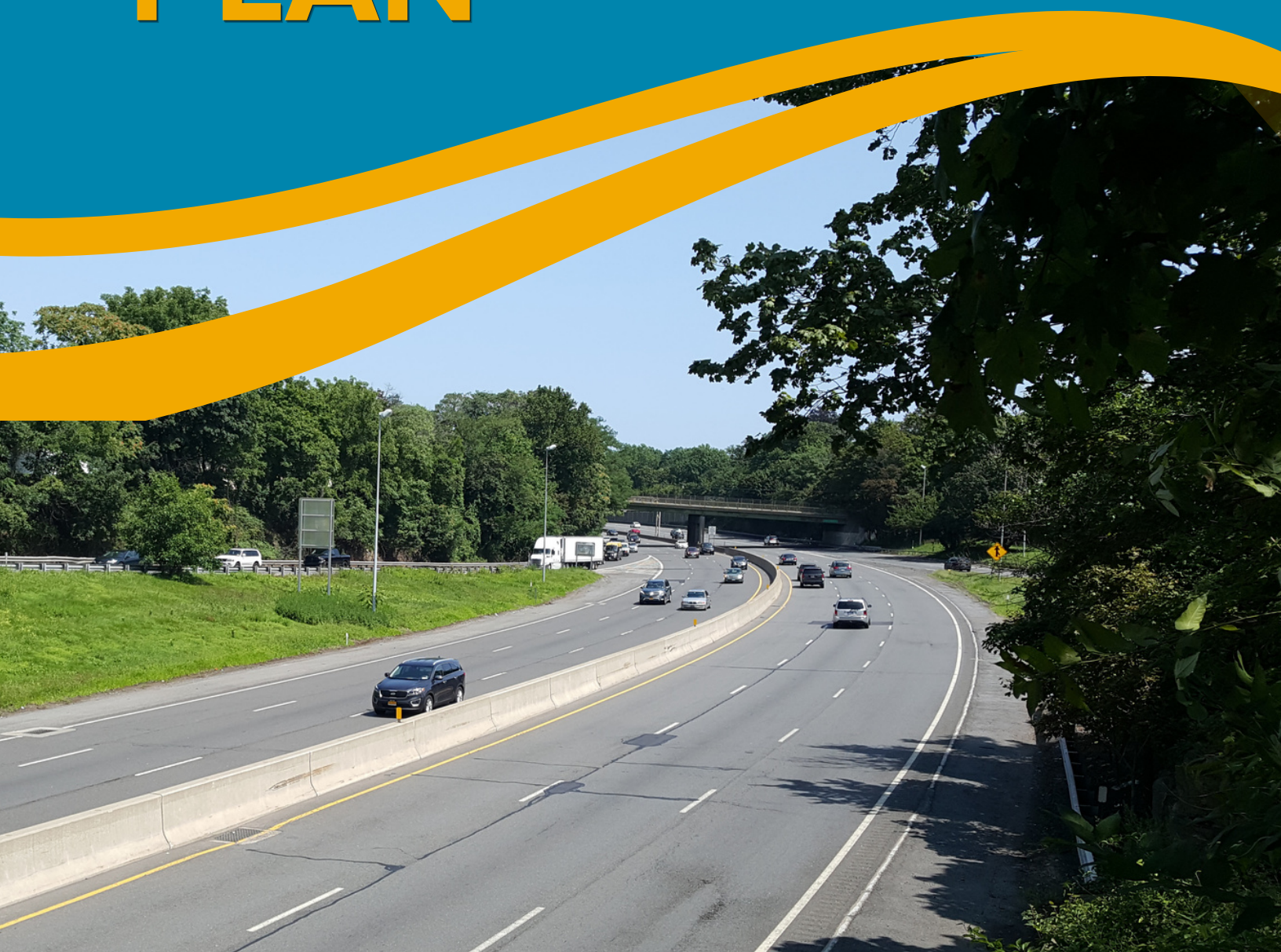




# Revision History

DATE	TOPIC	DESCRIPTION
7/27/23	Fiscal Responsibility (page 32)	Updated Objectives
8/08/23	Members and Officers (page 10) Operational Excellence (page 24)	Updated Authority Officers Updated Strategic Goals
9/18/23	Table of Contents (page 2) Letter From the Director (page 3) Executive Team (page 15)	Updated titles of Acting Executive Director and Chief Financial Officer
10/19/23	Infrastructure Integrity (page 28)	Updated Strategic Goals (bullet 3)

# NEW YORK STATE THRUWAY AUTHORITY STRATEGIC PLAN




TO: The Thruway Authority Governance Committee  
FROM: Andrew Trombley  
Director of Procurement Services  
SUBJECT: Approving the Procurement Contracts Policy (No. 25-5-01)

The Public Authorities Law requires the Thruway Authority Board (the “Board”) to annually review and approve by resolution comprehensive guidelines which detail the Authority’s operative policy and instructions regarding the use, awarding, monitoring, and reporting of procurement contracts. The Thruway Authority Governance Committee is required by its Charter to review and recommend to the Board any recommended revisions to the written policies regarding procurement of goods and services. Consistent with such, attached in Exhibit A for the review of the Governance Committee is the Procurement Contracts Policy. There are no changes to the version which was approved by the Board in December 2022.

**RECOMMENDATION:**

It is recommended that the Governance Committee approve this item and authorize Authority staff to present this item to the Board.



 <b>Thruway Authority</b> <b>GENERAL POLICY</b>	SECTION TITLE  <b>POLICIES -- PURCHASING</b>	NUMBER <b>25-5-01</b>
APPROVED  <b>BOARD MEETING NUMBER: XXX</b> <b>RESOLUTION NUMBER: DATE: November 14, 2023</b>	SUBJECT  <b>PROCUREMENT CONTRACTS</b>	

## Introduction

This Policy, established pursuant to Section 2879 of the New York State Public Authorities Law, sets forth the guidelines of the New York State Thruway Authority (Authority) regarding the Authority's use, awarding, monitoring and reporting of Procurement Contracts. These guidelines are not intended and shall not be deemed to grant or confer any rights or remedies to or upon any third party.

Except as otherwise provided herein, all Authority Procurement Contracts are subject to this Policy. Attachment 1 sets forth a representative (but not exclusive) list of the types of goods purchased, and a description of those areas of responsibility and oversight requiring the use of services and the reasons for the use of services in such areas.

## I. Definitions

- A. "Discretionary Purchase" is a procurement made below statutorily established monetary threshold amounts (e.g., not exceeding \$500,000 for the purchase of commodities and/or services from Small Business Concern or NYS-certified MWBE firms, and without a dollar cap for SDVOBE firms) and at the discretion of the Authority, without the need for a formal competitive bid process. For the purpose of determining whether a purchase is within the discretionary thresholds, the aggregate amount of all purchases of the same commodities and/or services to be made within the 12- month period commencing on the date of purchase shall be considered. A change to or a renewal of a discretionary purchase shall not be permitted if the change or renewal would bring the reasonably expected aggregate amount of all purchases of the same commodities and/or services from the same provider within the 12- month period commencing on the date of the first purchase to an amount greater than \$500,000, pursuant to State Finance Law § 163.
- B. "Emergency" shall mean an unanticipated, sudden or unexpected event or escalation of an event beyond the control of the Authority which, if not immediately corrected, would endanger: a) the life, health, safety or welfare of any person, or b) the continued public use or function of a transportation or other facility or property of the Authority or the State of New York.
- C. "Foreign Business Enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods sought by the Authority and which are substantially produced outside New York State, or services sought by the Authority and which are substantially

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performed outside New York State. For purposes of construction services, a Foreign Business Enterprise shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York State.

- D. “Goods” include equipment, material and supplies of any kind. Procurement Contracts that include both goods and services may be classified as for “goods” where 60% or more of the total projected contract value will be for the purchase of equipment, material or supplies.
- E. “Minority Owned Business Enterprise” shall have the same meaning as that set forth in Public Authorities Law Section 2879.
- F. “New York State Business Enterprise” shall mean any business enterprise which offers for sale, lease or other form of exchange, goods or services sought by the Authority which are substantially manufactured, produced, assembled or performed within New York State.
- G. “New York State Resident” shall have the same meaning as that set forth in Public Authorities Law Section 2879.
- H. “Procurement Contract” shall mean any written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars (\$15,000) or more. Construction contracts and design-build contracts are included within the scope of the definition of a Procurement Contract pursuant to this Policy, but are not Procurement Contracts pursuant to Public Authorities Law Section 2879. A Procurement Contract does not include contracts valued under \$15,000, agreements for the settlement or compromise of any action, proceeding or claim by or against the Authority, certain financial, insurance and healthcare products that do not readily lend themselves to a competitive solicitation, contracts for the direct and indirect placement of advertisements with radio, television, print and electronic media, periodicals, subscriptions, reference materials or professional research tools, written materials, fees or tuition associated with continuing education courses, training courses, conferences, seminars and symposiums, funding agreements, co-funding agreements, grants or memberships in various industry groups, professional societies or similar cooperative associations, or any cooperative projects and procurement activities conducted or sponsored by such organizations in which the Authority participates.
- I. “Professional Firm” shall mean any individual or sole proprietorship, partnership, corporation, association or other legal entity permitted by law to practice the professions of architecture, engineering or surveying.
- J. “Services” shall mean services of a consulting, professional or technical nature

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provided by outside consultants/contractors (individuals, partnerships or firms who are not and do not employ officers or employees of the Authority) for a fee or other compensation.

- K. “Service Disabled Veteran Owned Business Enterprise” shall have the same meaning as that set forth in Article 17-B of the Executive Law Section 369-H.
- L. “Small Business Concern” is a business that is resident in New York State, is independently owned and operated, not dominant in its field and employs not more than 100 people.
- M. “Women Owned Business Enterprise” shall have the same meaning as that set forth in Public Authorities Law Section 2879.

## **II. Selection of Contractors for Goods**

Except as otherwise provided in this Policy, the Authority shall award Procurement Contracts for goods to the lowest responsible bidder as will best promote the Authority’s interests, taking into consideration: the reliability of the contractor; the quality of the goods to be furnished; the goods’ conformity with the specifications; the terms of delivery; and/or such other criteria as the Authority determines appropriate. The Authority shall solicit bidders for applicable contracts pursuant to Article 4-C of the New York State Economic Development Law (e.g., advertise in the Contract Reporter). The Authority shall solicit price quotes from at least three (3) sources, if available.

## **III. Selection of Contractors for Services**

- A. The Authority may contract for services when, because of one or more of the following factors or considerations, it is more beneficial for such services to be contracted for than performed by employees of the Authority:
  - 1. lack of or unavailability of sufficient staff, facilities, equipment or other resources;
  - 2. requirement of special expertise or abilities not adequately possessed by Authority employees;
  - 3. timing;
  - 4. short term or infrequent need for the service; or
  - 5. distance of the location(s) where the services must be performed from Authority offices or facilities.



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- B. Except as otherwise provided in this Policy, the Authority shall award Procurement Contracts for professional services, except those to Professional Firms, to a responsive and responsible contractor on the basis of best value, taking into account: the contractor's experience and capability to perform the required services, the adequacy of contractor's staff to be assigned to Authority work, the overall quality and responsiveness of the contractor's proposal, the contractor's fee structure and overall price; and/or such other criteria as the Authority determined appropriate. Procurement Contracts for construction and design-build services shall be awarded in compliance with all applicable laws. The Authority shall solicit proposals for applicable contracts pursuant to Article 4-C of the New York State Economic Development Law (e.g., advertise in the Contractor Reporter). The Authority shall solicit price quotes from at least three (3) sources, if available.
- C. The Authority shall award Procurement Contracts for the services of Professional Firms on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable fees. The Authority shall not refuse to negotiate with a Professional Firm solely because the ratio of the "allowable indirect costs" to direct labor costs of the Professional Firm or the hourly labor rate in any labor category of the Professional Firm exceeds a limitation generally set by the Authority in the determination of the reasonableness of the estimated cost of services to be rendered by the Professional Firm, but rather the Authority should also consider the reasonableness of cost based on the total estimated cost of the service of the Professional Firm which should include, among other things, all the direct labor costs of the Professional Firm for such services plus all "allowable indirect costs," other direct costs, and negotiated profit of the Professional Firm. "Allowable indirect costs" of a Professional Firm are defined as those costs generally associated with overhead which cannot be specifically identified with a single project or contract and are considered reasonable and allowable under specific state contract or allowability limits.
- D. The Director of Procurement Services may, in consultation with the appropriate Authority program managers, designate those services other than the services of Professional Firms for which cost will be the only criterion for determining best value.

#### **IV. Waiver of Competition**

The Authority Board may waive the use of the competitive procedure for Procurement Contracts provided in this Policy based upon one or more of the following findings:

- A. There is a need to respond to an Emergency.
- B. A condition exists that makes it impractical or not in the Authority's best interest to seek competition due to the specialized nature of the goods or services required.

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- C. There is a historical relationship, the continuation of which is in the best interests of the Authority.
- D. There is a need for confidentiality.
- E. The proposed project requires specialized knowledge of, or proximity to, the Authority.
- F. There is a requirement for which, in the sole opinion of the Authority, there is a lack of responsible competition to perform the desired services.
- G. There is a specific contractor selection that is necessary or convenient to the operations of the Authority.

## **V. General Procurement Requirements**

- A. The Authority shall ensure that its Procurement Contracts in an amount equal to or in excess of fifty thousand dollars (\$50,000) comply with the public notification requirements of Article 4-C of the New York State Economic Development Law.
- B. The Authority shall not enter into a Procurement Contract with any current or former officer or employee of the Authority where such contract would be in contravention of law or would create a conflict of interest.
- C. Pursuant to Public Authorities Law § 2879-a, the Comptroller Regulations and the State Authority Contract Manual, the Authority may be required to submit certain contracts to the New York State Comptroller for approval that are awarded on a Sole Source, Single Source, or other non-competitive basis for the purchase of goods and/or services in an amount in excess of \$1 million, and shall notify the successful bidder therefor. Such contracts or contract amendments shall not be valid and enforceable unless approved by the Comptroller or until 90 days have elapsed from such submission without action by the Comptroller, as further set forth in the referenced law and regulations.
- D. The Executive Director must approve all contractor selections for Procurement Contracts for services based upon the recommendation of either the Non-Engineering Personal Services Committee or the Engineering Selection Committee.
- E. The Authority may utilize the Procurement Contracts of other Federal, State or local entities to purchase goods or services provided it would be in the Authority's best interests to do so.
- F. The Authority shall comply with State Finance Law Sections 139-j and 139-k that place restrictions on attempts to influence during the procurement process, require the

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recording of attempts to influence made during the restricted period for a procurement, and outline the responsibilities of offerors relative to the procurement process.

- G. The Authority will perform an affirmative review of a contractor's responsibility, in accordance with applicable laws, rules, regulations and guidelines, prior to the award of a Procurement Contract. This review shall be designed to provide reasonable assurance that a proposed or current contractor is responsible and should consider such issues as: integrity; performance on other governmental contracts; legal ability to supply the product or perform the services; and financial and organizational capability.
- H. The Authority will create a record for each Procurement Contract that documents its compliance with this Policy.

## **VI. Participation of Minority and/or Women-Owned Business Enterprises (MWBEs)**

It is the policy of the Authority to comply with the provisions of Article 15-A of the New York State Executive Law, which requires that every Procurement Contract over \$15,000 will afford equality of economic opportunities for minority group members and women and the facilitation of participation by MWBEs. The Authority shall establish separate goals for participation of MWBEs on all Authority contracts where applicable. Furthermore, if the performance of any Procurement Contracts permits or requires the use of a subcontractor, these contracts shall require the prime contractor to act affirmatively to encourage participation by MWBEs in such subcontract and to report the nature and extent of such efforts to the Authority. Authority staff will also review the Directory of MWBEs prior to making discretionary purchases and choose MWBEs when feasible.

All Procurement Contracts, where required, shall comply with Executive Law Article 15-A and the Public Authorities Law, and rules and regulations promulgated thereunder.

- A. In furtherance of the above, and to promote the use of certified MWBEs in Procurement Contracts, the Authority shall:
  - 1. Designate appropriate staff to oversee the Authority's programs established to promote and assist: (i) participation by certified MWBEs in the Authority's procurement opportunities and facilitation of the award of Procurement Contracts to such enterprises; (ii) the utilization of certified MWBEs as subcontractors and suppliers by entities having Procurement Contracts with the Authority; and (iii) the utilization of partnerships, joint ventures or other similar arrangements between certified MWBEs and other entities having Procurement Contracts with the Authority. Such staff will be familiar with the procurement process utilized by the Authority, report directly to the Executive Director and either directly or through their designees participate in the procurement process.



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2. Establish appropriate goals for participation of MWBEs in Procurement Contracts and for the utilization of MWBEs as subcontractors and suppliers.
3. Provide notice of any procurement to appropriate professional organizations that serve MWBEs so that members of these organizations are apprised of potential opportunities to contract with the Authority.
4. Include language regarding equal employment opportunity and non-discrimination in all Procurement Contracts and/or all documents soliciting bids or proposals for Procurement Contracts, and require the contractor to include this language in all subcontracts.
5. Include a provision in the Authority's Procurement Contracts expressly providing that any contractor who willfully and intentionally fails to comply with the MWBE participation requirements as set forth in the contract shall be liable to the Authority for liquidated or other appropriate damages as may be determined by the Authority.
6. Maintain lists of qualified certified MWBEs that have expressed an interest in doing business with the Authority and ensure such entities receive direct notice of any impending procurements. The Authority shall also consult the lists of certified MWBEs maintained by the Department of Economic Development.
7. List applicable goals for participation of certified MWBEs in Procurement Contracts in all solicitations and for the utilization of MWBEs as subcontractors and suppliers by entities having Procurement Contracts with the Authority.
8. Conduct procurements in a manner that will enable the Authority to achieve the maximum feasible portion of the goals established and eliminate barriers to participation of MWBEs on Procurement Contracts. The Authority shall include, without limitation:
  - a. the expected degree of MWBE participation;
  - b. provisions relating to joint ventures, under which a bidder may count toward meeting its MWBE participation goal;
  - c. provisions under which the Authority may waive obligations of the contractor relating to MWBE participation after a showing of good faith efforts to comply with the requirements of this Policy and all applicable laws pursuant to the waiver provisions contained in Executive Law Article 15-A; and

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d. verification that MWBEs listed in a successful bid are actually participating to the extent listed on the project for which the bid was submitted.

B. In implementing the provisions of this Section VI, the Authority shall:

1. Consider, where practicable, the severability of construction projects and other bundled projects;
2. Implement a program that will enable it to evaluate each Procurement Contract to determine the appropriateness of the established goal;
3. Consider compliance with the requirements of any federal law concerning opportunities for MWBEs which effectuates the purpose of this section; and
4. Consult the most recent disparity study pursuant to Article 15-A of the Executive Law.

## **VII. Participation of Service-Disabled Veteran-Owned Business Enterprises (SDVOBEs)**

It is the policy of the Authority to comply with the provisions of Article 17-B of the New York State Executive Law, which requires that every Procurement Contract over \$15,000 will afford equality of economic opportunities to certified SDVOBEs thereby further integrating such businesses into New York State's economy. The Authority will make a good faith effort to achieve SDVOBE participation to the extent such firms are available, and will use its best effort so that SDVOBE firms are included in Procurement Contracts. All Procurement Contracts, where required, shall comply with Executive Law Article 17-B. The Executive Director shall appoint one or more senior staff to oversee the Authority's SDVOBE program.

Before the Authority issues bid documents, or during the Authority's bid development phase, the Authority's procurement staff will consult the Directory of SDVOBEs posted on the OGS website to determine whether the solicitation may be considered for a SDVOBE goal.

Authority staff will also review the Directory of SDVOBEs prior to making discretionary purchases and choose SDVOBEs when feasible.

All procurements subject to Executive Law Article 17-B will contain standard language in solicitations and Procurement Contracts regarding participation of SDVOBEs on State contracts.

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## **VIII. Promotion of New York State Business Enterprises and New York State Residents in Procurement Contracts**

The Authority shall promote and solicit the participation by New York State Business Enterprises and New York State Residents in Procurement Contracts in compliance with Public Authorities Law Section 2879 and shall develop procedures consistent with such.

## **IX. Requirements Regarding Foreign Business Enterprises and Discriminatory Jurisdictions**

The Authority will follow the requirements and procedures of Public Authorities Law Section 2879(5) with respect to Procurement Contracts with Foreign Business Enterprises. Accordingly, the Authority shall notify the Department of Economic Development of the award of a Procurement Contract for the purchase of goods or services from a Foreign Business Enterprise in an amount greater than or equal to one million dollars simultaneously with notifying the successful bidder. The Authority will not enter into any such Procurement Contract until at least 15 days have elapsed from notice to the Department of Economic Development, except where the Procurement Contract was awarded on an emergency or critical basis or where the Commissioner of Economic Development waives the notice requirement.

In addition, pursuant to Public Authorities Law Section 2879(5), the Authority will impose restrictions on Foreign Business Enterprises located in Discriminatory Jurisdictions with respect to the solicitation and award of Procurement Contracts.

## **X. Procurement Contract Provisions**

To the extent deemed appropriate by the Executive Director and the General Counsel, Procurement Contracts may include, but should not necessarily be limited to, the following provisions:

- A. Scope of Services
- B. Compensation and Allowable Expenses
- C. Payment Methodology
- D. Term or Time for Performance
- E. Personnel, Equipment and Supplies
- F. Standards of Performance
- G. Independent Contractor
- H. Subcontracting
- I. Insurance and Bond Requirements
- J. Liability and Indemnification
- K. Ethics



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- L. Confidentiality and Non-Disclosure
- M. Lobbying Law Certification
- N. Public Announcements
- O. Interchange of Data
- P. Environmental Review
- Q. Damages for Delay
- R. Suspension, Abandonment and Termination
- S. Severability Clause
- T. Non-Assignment Clause
- U. Comptroller Approval
- V. Workers' Compensation and Disability Benefits
- W. Non-Discrimination Requirements
- X. Wage and Hours Provisions
- Y. Non-Collusive Bidding Certification
- Z. International Boycott Prohibition
- AA. Set-Off Rights
- AB. Records
- AC. Identifying Information and Privacy Notification
- AD. Equal Employment Opportunities for Minorities and Women
- AE. Conflicting Terms
- AF. Governing Law
- AG. Late Payment
- AH. No Arbitration
- AI. Service of Process
- AJ. Prohibition on Purchase of Tropical Hardwoods
- AK. MacBride Fair Employment Principles
- AL. Omnibus Procurement Act of 1992
- AM. Reciprocity and Sanctions Provisions
- AN. Purchases of Apparel
- AO. Observance of Laws
- AP. No Waiver of Provisions
- AQ. Entire Agreement
- AR. Iranian Energy Sector Divestment
- AS. Promotion of New York State Business Enterprises and New York State Residents in Procurements
- AT. Contractor Requirements and Procedures for Business Participation Opportunities for New York State Certified MWBEs
- AU. Participation Opportunities for New York State Certified SDVOBEs
- AV. Ensuring Pay Equity (Executive Order No. 162)
- AW. Prohibiting Contracts with Entities that Support Discrimination (Executive Order No. 177)

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AX. Ownership of Materials

AY. Compliance with New York State Information Security Breach and Notification Act

AZ. Net Neutrality Principles (Executive Order No. 175)

## **XI. Delegations**

The Authority Board must approve all Procurement Contracts unless such approval has been otherwise delegated in this Policy.

A. The Executive Director or the Executive Director's designee is authorized to:

1. Execute any Procurement Contract, including any amendments thereto, for expenditures in an amount not to exceed five hundred thousand dollars (\$500,000) provided that a Procurement Contract for professional services with a term in excess of one year shall require the Board's review and approval within one year of execution of the Procurement Contract. For a Procurement Contract for professional services with a term in excess of one year that must be awarded prior to the next Board meeting, the initial contract will be issued for the entire intended term of the contract. Based on its total term and value, such contract must be approved in writing by the Executive Director and such contract is subject to the Board's approval at the next Board meeting. If such approval is not granted, the contract will be terminated or amended immediately.
2. Approve an increased expenditure by the Authority not to exceed five hundred thousand dollars (\$500,000) for any Procurement Contract previously approved by the Authority Board.
3. Approve or extend Procurement Contracts for a period in excess of one year provided such contract or extension does not exceed five hundred thousand dollars (\$500,000); provided that Procurement Contracts for professional services may not be extended for a period in excess of one year without approval of the Board.
4. Waive the use of a competitive procedure for any Procurement Contract needed to respond to an Emergency in accordance with the procedure set forth in the Authority Procedure for Declared Emergency Work, the Board resolution authorizing the Authority's Contracts Program, and/or pursuant to an Executive Order of the Governor.
5. Waive the use of a competitive procedure for any Procurement Contract in an amount not to exceed five hundred thousand dollars (\$500,000) when the

Executive Director or the Executive Director's designee finds one or more of the conditions set forth in Article IV. B. - H. of this Policy to be present.

6. Interpret, implement and administer this Policy, including the development of operational and/or administrative policies, guidance and procedures necessary to carry out its intent. These operational and/or administrative policies should, at a minimum, identify the roles and responsibilities of Authority personnel implementing and administering this Policy and the manner in which those responsibilities are to be fulfilled.
  7. Appoint a Procurement Integrity Officer whose responsibilities shall include the establishment of processes to prevent or detect improper lobbying influence, to provide guidance to program managers regarding vendor responsibility determinations, to administer the Contract Review and Vendor Responsibility Committee, and to ensure the Authority is in compliance with applicable executive orders, laws, rules and regulations regarding procurement integrity and vendor responsibility.
- B. The Director of Procurement Services or the Director of Procurement Services' designee is authorized to execute Procurement Contracts for goods provided the process used to procure such goods is in accordance with Authority procedures, and the contractor was selected based on a solicitation for bids. The Director of Procurement Services may, without a formal competitive process, execute any Procurement Contract for the purchase of goods or services from a Small Business Concern, certified MWBE, or from a certified SDVOBE, or for goods or technology that are recycled or remanufactured, in an amount not to exceed five hundred thousand dollars (\$500,000).
- C. Procurement Contracts involving the Authority's Contracts Program shall be awarded, amended/supplemented and managed by the Chief Engineer, Executive Director and Chief Financial Officer pursuant to the Board resolutions authorizing the Authority's Contracts Program.

## **XII. Review and Reporting Requirements**

- A. In accordance with Public Authorities Law Section 2879, the Authority Board shall annually review and approve this Policy.
- B. Information related to Procurement Contracts involving the Contract Program shall be included in the submittal to the Board seeking authorization for the Contracts Program for the Board's review and approval.
- C. The Executive Director or designee shall report to the Board quarterly on all



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Procurement Contracts or amendments thereto that he or she has executed pursuant to Article XI. A. of this Policy.

- D. Following each fiscal year, the Authority Board shall approve an annual report on Procurement Contracts as required by subdivision 7 of section 2879 of the Public Authorities Law. Such annual report will include: (i) this Policy and any amendments hereto; (ii) an explanation of this Policy and any amendments hereof; (iii) a list of the year's Procurement Contracts and their status and selection process; (iv) a list of the aforesaid contracts entered into with New York State Business Enterprises (as defined in Public Authorities Law, Section 2879(3)(i)), and the subject matter and value thereof; (v) a list of the aforesaid contracts entered into with Foreign Business Enterprises and the subject matter and value thereof; (vi) a list of contracts entered into with certified MWBEs and value thereof; (vii) all referrals made and all penalties imposed pursuant to Executive Law Section 316; and (viii) a list of Procurement Contracts exempted from reporting in the Contract Reporter and the basis for each exemption. The annual report on Procurement Contracts, after being approved by the Board, shall be submitted to the Division of the Budget with copies to the Department of Audit and Control, the Department of Economic Development, the Senate Finance Committee and the Assembly Ways and Means Committee.

### **XIII. Miscellaneous Provisions**

- A. The Authority's failure to comply with the provisions of this Policy shall not alter, modify the terms of, affect the validity of, or impair any of the Authority's rights or privileges under any Procurement Contract to which the Authority is a party, nor shall it provide any rights or privileges to an entity seeking a Procurement Contract with the Authority.
- B. The Authority may allow other Federal, State or local entities to purchase goods or services through an Authority Procurement Contract provided it would be in the Authority's best interests to do so and such procurement is acceptable to the contractor.

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## **ATTACHMENT 1**

### **A. Types of Goods Purchased**

The following is an illustrative (but not exclusive) list of the types of goods the Authority has purchased in the past and may purchase in the future:

- Office equipment, furniture and supplies such as fax machines, copiers, audio/video equipment, copier toner and paper;
- Computer equipment and supplies such as mainframe components and related equipment, personal computers, software, and peripheral equipment, accessories and supplies;
- Heavy construction equipment such as bulldozers, wheel loaders, crawler loaders, excavators and pavers;
- Marine fleet vessels and related equipment such as barges, tugs and marine generators;
- Motorized automotive truck fleet and related equipment such as diesel and gas trucks of all sizes, plow trucks, plow attachments, material spreaders, aerial lift trucks and tow trucks;
- Prefabricated buildings, building equipment such as furnaces, boilers, and air conditioners, and building maintenance equipment and supplies;
- Uniforms for employees;
- Road maintenance materials such as salt, ice control abrasives and de-icing solutions;
- Highway construction materials such as asphaltic materials, sand, stone, gravel and ready-mix concrete;
- Property maintenance equipment and supplies such as mowers, tractors and associated equipment;
- Telecommunication systems utilizing conventional and fiber optic technologies including cell phones, pagers, telephone switching equipment, radios, radio towers, equipment and accessories;

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- Intelligent transportation systems equipment supporting E-ZPass® and automatic vehicle identification (AVI);
- Sign fabrication materials, equipment and supplies including aluminum sheets and sign blanks, reflective sheeting and sign making machines;
- Building security systems, fire alarms and suppression systems, and card access and badging systems.

## **B. Types of Services Purchased**

The Authority purchases services for a variety of reasons including, but not limited to, the need to: augment in-house staff; provide expertise in specialized areas; provide independent review; serve as a liaison with certain entities; and handle specialized matters expeditiously. The following is an illustrative (but not exclusive) list of the types of services the Authority has purchased in the past or may purchase in the future:

- Legal  
Provide legal services to the Authority in the areas of bond and note financing, environmental review compliance, litigation, real property matters, labor issues, intellectual property, technology and computer law, insurance law and government relations.
- Construction  
Construction, reconstruction, repair, rehabilitation, and improvement of highway, bridges and other facilities under the jurisdiction of the Authority.
- Expert Witness  
Provide the Authority with expert analysis of issues raised in litigation and serve as expert witness at trial as needed. Such issues may include, but shall not be limited to: medical assessment of personal injuries, economic analysis of potential lost earnings and accident reconstruction.
- Audit and Accounting  
Provide audit services pertaining to the year-end preparation of financial statements for the Authority in conformance with generally accepted accounting principles. Perform special audits and provide financial advisory services as requested.
- Building Maintenance and Security  
Provide building maintenance services such as janitorial, HVAC, rubbish removal, electrical preventive maintenance, elevator inspection and maintenance, and security, including guards.

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- Investment Banking  
Competitive sales: Purchase and distribute Authority debt issuances. Negotiated sales: Provide assistance in the preparation, sale, marketing and distribution of Authority debt issuances.
- Environmental  
Provide environmental services such as hazardous waste removal and disposal, asbestos removal, air quality testing and weather forecasting.
- Financial/Transportation/Counting  
Provide courier and money counting services from toll facilities to banking facilities and Dun and Bradstreet financial reporting.
- Trustee Banking Services  
Provide banking services to monitor the timely receipt of debt service payments, compliance and reserve requirements, retirement of debt, collateral evaluations and other services as required by the various debt resolutions.
- Communications  
Provide radio and intercom installation, highway advisory radio installation and radio tower installation.
- Engineering  
Provide engineering services for Authority owned or operated facilities, including but not limited to, design and construction inspection engineering services.
- Architectural  
Provide architectural services for Authority owned or operated facilities.
- Surveying  
Provide surveys of Authority owned properties to establish boundaries, utility locations, etc.
- Real Property Advisory Services  
Assist the Authority with evaluations of Authority property including the value and potential uses thereof.
- Computer Programming Services  
Assist the Authority with the design, implementation and operation of computer programs that will enable the Authority to function more efficiently.



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- Health  
Provide health care services such as medical testing, nursing and prescription eyeglass services.
- Equipment Maintenance  
Provide routine service and repair of office, data processing, bridge, building, highway maintenance and motorized equipment.
- Risk Management Consulting  
Provide risk management services to assist the Authority with its insurance program.
- Training  
Provide supervisory and special skills to Authority employees.
- Printing  
Provide financial printing services based upon specifications and detail developed by the Authority. Provide various technical printing services relative to the reproduction of forms and other printed matter. Provide technical, graphic, layout and printing services in connection with production of the Authority's annual report and any other reports, brochures, maps or printed matter that may be necessary or desirable.

TO: Governance Committee

DATE: November 14, 2023

FROM: Selica Grant, Director of Administrative Services

SUBJECT: Amending the Thruway Authority Sexual Harassment in the Workplace Policy  
(25-2-25)

The Thruway Authority Governance Committee is required by its Charter to review and recommend to the Board any recommended revisions to the written policies regarding equal employment and other policies affecting governance of the Authority. Consistent with such, for review and approval of the Governance Committee are revisions to the Authority's Sexual Harassment in the Workplace Policy.

On April 12, 2018, Chapter 57 of the Laws of 2018 was enacted, requiring the New York State Department of Labor, in consultation with the New York State Division of Human Rights, to produce a Model Sexual Harassment Prevention Policy ("Model Policy"). On July 6, 2022 Governor Kathy Hochul announced that the New York State Department of Labor will update its nation-leading sexual harassment prevention policy and on April 11, 2023, Governor Kathy Hochul announced that the New York State Department of Labor has finalized updates to the State's Sexual Harassment Model Policy, a template document that New York State provides to employers to help them comply with State laws and access best-in-class policies on sexual harassment and related topics to protect employees in the workplace. The New York State Department of Labor collaborated with the New York State Division of Human Rights on the strengthened guidance, which addresses remote workers, gender discrimination, retaliation, and other new guidance for workers in New York State. The New York State Department of Labor also unveiled a new interactive training video and online resources to help employers and employees statewide understand and comply with the newly enhanced policy and mandatory training requirements.

While the Authority's current Sexual Harassment in the Workplace Policy (25-2-25) is comprehensive and is consistent with the minimum standards, I recommend adopting the revised Model Policy with minor modifications suggested by Authority staff of the Bureau of Equal

Employment Opportunity and Diversity Development in the Department of Administrative Services with the consultation of the Legal Department.


A copy of the proposed revised Sexual Harassment in the Workplace Policy is attached as Exhibit A. A version of the proposed amended policy with the revisions from the current policy displayed is attached as Exhibit B. The proposed policy includes federal and state statutory sexual harassment provisions; remedies available to victims; procedures for prompt and confidential investigations; available forums for filing complaints; and a statement on unlawful retaliation.

If the amended policy is approved by the Board, Authority employees will receive a revised copy of the Sexual Harassment in the Workplace Policy. The policy will be distributed in writing and electronically, posted on all Authority bulletin boards and the Authority's Intranet, and provided in training. In addition, newly hired employees will sign to acknowledge receipt of the policy on their first day of employment.

Another key component of the new requirements is annual interactive training on sexual harassment prevention for all Authority employees. All employees have been trained to date and will continue to be trained on an annual basis. The Authority's Sexual Harassment Prevention training program exceeds the minimum standards included in the model training program.

#### RECOMMENDATION:

It is recommended that the Governance Committee approve this item and authorize Authority staff to present this item to the Board.

 <b>Thruway Authority</b> <b>GENERAL POLICY</b>	SECTION TITLE  <b>POLICIES -- PERSONNEL</b>	NUMBER <b>25-2-25</b>
APPROVED  <b>BOARD MEETING NUMBER:</b> <b>RESOLUTION NUMBER:</b> <b>DATE:</b>	SUBJECT  <b>SEXUAL HARASSMENT IN THE WORKPLACE</b>	

## I. INTRODUCTION

The New York State Thruway Authority (Authority) is committed to maintaining a workplace free from sexual harassment. Sexual harassment is against the law.

Sexual harassment is a form of workplace discrimination that violates Title VII of the federal Civil Rights Act of 1964 and the New York State Human Rights Law. The Authority recognizes that discrimination can be related to or affected by other identities beyond gender. While this Policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. More information can be found in the Executive Instruction entitled **ILLEGAL DISCRIMINATION IN THE WORKPLACE**.

Employees, managers and supervisors are required to work in a manner designed to prevent sexual harassment in the workplace. This Policy is one component of the Authority's commitment to a discrimination-free work environment.

## II. POLICY

- A. This Policy applies to all Authority employees, including interns, whether paid or unpaid, applicants for employment and covered individuals<sup>+</sup> who are not direct employees of the Authority, regardless of immigration status.
- B. Sexual harassment of any type will not be tolerated. Any employee or covered individual who engages in sexual harassment or retaliation will be subject to remedial action, including appropriate discipline for employees. In New York, sexual harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting sexual harassment because they do not feel it is bad enough or, conversely, because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, administrative action for employees engaging in sexual harassment will depend on the degree of harassment and might include education and counseling, discipline or lead to suspension or termination when appropriate.



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- C. **Retaliation Prohibition:** No one should fear reporting sexual harassment. Any employee or covered individual who reports an incident of sexual harassment, provides information or otherwise assists in any investigation of a sexual harassment complaint is protected from retaliation so long as the person reasonably believes that they have witnessed or experienced such behavior. Any employee who retaliates against anyone involved in a sexual harassment investigation will be subject to administrative action, including discipline up to, and including, termination. All employees or covered individuals who believe they have been subject to such retaliation should inform a supervisor, manager or the Bureau of Equal Employment Opportunity and Diversity Development (EEODD). All employees or covered individuals who believe they have been a target of such retaliation may also seek relief from government agencies as explained below in the section on Legal Protections.
- D. Sexual harassment is offensive, is a violation of the Authority's policies, is unlawful and may subject the Authority to liability for the harm experienced by targets of sexual harassment. Harassers as well as employers and supervisors who aid and abet such behavior by failing to report or act on harassment may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
- E. The Authority will conduct a prompt and thorough investigation whenever managers, supervisors or EEODD receive a complaint about sexual harassment or otherwise know of possible sexual harassment occurring. The Authority will keep the investigation confidential to the extent possible. Corrective action will be taken whenever the investigation finds sexual harassment occurred. In addition to any required administrative action, the Authority will also take steps to ensure a safe work environment for the employee(s) who experienced the harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment. The failure to cooperate may result in administrative action by the Authority against the non-cooperating individual, including discipline up to, and including, termination.
- F. All employees and covered individuals are encouraged to report any harassment or behaviors that violate this Policy. Employees may complete a NEW YORK STATE EMPLOYEE DISCRIMINATION COMPLAINT (COMPLAINT) form to report harassment and file complaints. The COMPLAINT form is available on the Intranet or can be obtained by contacting EEODD. The COMPLAINT form is not required to file a complaint. Complaints reported verbally or by email will be treated with equal priority. An employee or covered individual who prefers not to report harassment to

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their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

- G. Managers and supervisors are **required** to report any complaint they receive, or any harassment they observe or become aware of, to EEOOD.
- H. This Policy applies to all employees and covered individuals and all must follow and uphold this Policy. This Policy must be provided to all employees in person or digitally upon hiring, posted prominently in all work locations and available on the Intranet.

### **III. WHAT IS “SEXUAL HARASSMENT”?**

Sexual harassment is a form of gender-based discrimination and is unlawful under federal, state and, where applicable, local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, sex stereotypes, gender expression, gender identity or the status of being transgender. Sexual harassment is not limited to sexual contact, touching or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender. The gender spectrum is nuanced. Training and information are available on EEOOD’s [Gender Identity and Expression](#) Intranet page.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation or gender expression is considered a violation of this Policy. The intent of the behavior (e.g., making a joke) does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts.

Sexual harassment includes any unwelcome conduct which is either of a sexual nature, or directed at an individual because of that individual’s sex, gender identity or expression (perceived or actual) when:

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- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
- Such conduct is made, either explicitly or implicitly, a term or condition of employment; or
- Submission to such conduct or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a **hostile work environment** include, but are not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory or discriminatory statements which are offensive or objectionable to the recipient, cause the recipient discomfort or humiliation, or interfere with the recipient's job performance.
- Sexual harassment also occurs when a person in authority or perceived to be in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called **quid pro quo** harassment.

Any employee or covered individual who feels harassed should report the behavior so any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, is covered by this Policy.

#### **IV. EXAMPLES OF SEXUAL HARASSMENT**

The following list describes types of acts that may be unlawful sexual harassment and are strictly prohibited. **It is just a sample of behaviors and shall not be considered exhaustive or determinative.** Any employee or covered individual who believes they have experienced sexual harassment, even if it does not appear on this list, should report it:

- Physical acts of a sexual nature, such as:

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- Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body or poking another individual's body; or
- Rape, sexual battery, molestation or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this Policy. (Local law enforcement should be contacted to pursue criminal charges.)
- Unwanted sexual comments, advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits; or
  - Subtle or obvious pressure for unwelcome sexual activities; or
  - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks, jokes, questions or comments about an individual's sexuality, sexual experience or romantic history, which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look, such as:
  - Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace or conducting Authority business in remote work locations.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or gender expression, such as:



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- Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
- Sabotaging an individual's work;
- Bullying, yelling or name-calling;
- Intentionally misusing an individual's preferred pronouns; or
- Creating different expectations for individuals based on their perceived identities (e.g., dress codes that place more emphasis on women's attire or leaving parents/caregivers out of meetings).

**V. WHO CAN BE A TARGET OF SEXUAL HARASSMENT?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. **Harassers can be anyone in the workplace** including a supervisor, subordinate, coworker, independent contractor, contract worker, vendor, client, customer or visitor.

**VI. WHERE CAN SEXUAL HARASSMENT OCCUR?**

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees or covered individuals are traveling for business or at employer sponsored events or parties. Calls, texts, emails and social media usage by employees or covered individuals can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours, or when using virtual meeting platforms or messaging apps.

Sexual harassment can occur when employees are working remotely. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home or at another non-workplace location when the harassment occurs.

**VII. RETALIATION**

Retaliation is unlawful. It can be any action by an employee or supervisor that punishes an individual upon learning of a harassment claim, or discourages an individual from making a formal complaint or supporting a sexual harassment claim. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation.

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Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying reasonable accommodations, reduced hours or assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;
- Undermining an individual’s immigration status;
- Reducing work responsibilities, passing over for a promotion or moving an individual’s desk to a less desirable office location;
- Threats of physical violence outside of work hours; or
- Disparaging someone on social media.

Such retaliation is unlawful under federal, state and, where applicable, local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to a supervisor, manager, EEOOD or by simply informing a supervisor or manager of suspected harassment;
- Reported that another individual has been sexually harassed; or
- Encouraged a fellow employee or individual to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the

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individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment nor insulate the reporting individual from any acts of harassment that they have engaged in.

## **VIII. REPORTING SEXUAL HARASSMENT**

**Everyone must work towards preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to ensure employees feel safe at work and that workplaces are free from harassment.** Any employee or covered individual is encouraged to report harassing behavior to a supervisor, manager or EEODD. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or EEODD.

Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can name the behavior as inappropriate. Physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace.

Reports of sexual harassment on behalf of oneself or another covered individual may be made verbally or in writing. A [COMPLAINT form](#) is available on the Intranet or can be obtained by contacting EEODD, but it is not required. Employees using the COMPLAINT

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form to report sexual harassment on behalf of other employees should note that it is on another employee's behalf.

Employees or covered individuals who believe they have been a target of sexual harassment may seek assistance at any time in additional available forums as explained in the section on Legal Protections.

## **IX. SUPERVISORY RESPONSIBILITIES**

Supervisors and managers have a responsibility to prevent sexual harassment. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to EEODD. Supervisors and managers should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act promptly. They are responsible for any harassment or discrimination they know of or which they should have known.

Under the direction of EEODD, supervisors should also document the circumstances of any allegation, observation or rumored sexual harassment, including what actions were taken by the supervisor or manager to ascertain the facts.

Supervisors and managers are held to a higher standard of conduct and are expected to model appropriate workplace behavior. In addition to being subject to administrative action if they engage in sexually harassing conduct themselves, supervisors and managers can also be subject to administrative action, up to and including discipline, for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue after they know about it.

Supervisors and managers will also be subject to administrative action, up to and including discipline, for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive and free from retaliation for them during and after any investigation.



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## **X. COMPLAINT AND INVESTIGATION OF SEXUAL HARASSMENT**

*All* complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers, deserve a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Authority will take disciplinary action against anyone engaging in retaliation against employees who file complaints, support another's complaint or participate in harassment investigations.

The Authority recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward participants.

While the process may vary from case to case, investigations should be done in accordance with the following steps. Upon receipt of a complaint, EEODD will:

- Conduct an immediate review of the allegations, assess the appropriate scope of the investigation and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If a complaint is verbal, request that the individual complete the COMPLAINT form in writing. If the complainant prefers not to complete the form, EEODD will prepare a COMPLAINT form or equivalent documentation based on the verbal reporting.
- Take steps to obtain, review and preserve records sufficient to assess the allegations, including documents, photos, emails or phone records that may be relevant to the investigation.
- Consider and implement appropriate record request, review and preservation measures, including for electronic communications.
- Seek to interview all parties involved, including any relevant witnesses.
- Create written documentation of the investigation (such as a letter, memo or email),

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which contains the following:

- A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of any prior relevant incidents disclosed in the investigation, reported or unreported; and
  - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
  - Promptly notify the individual(s) who reported the harassment and the individual(s) about whom the complaint was made that the investigation has been completed and implement any corrective actions identified in the written documentation.
  - Inform the individual(s) who reported the harassment of the right to file a complaint or charge externally as outlined in the next section.

## **XI. LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

Sexual harassment is not only prohibited by the Authority but is also prohibited by federal, state and, where applicable, local law.

Aside from the Authority's internal process, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, employees may seek the legal advice of an attorney.

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## **XII. NEW YORK STATE HUMAN RIGHTS LAW (HRL)**

The HRL, N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State and protects employees and covered individuals regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment may be filed with DHR any time **within three years** of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the HRL **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to EEODD does not extend the time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases receive a public hearing before an administrative law judge. If sexual harassment is found at the hearing, DHR has the power to award relief. Relief varies but it may include requiring the employer to take action to stop the harassment or repair the damage caused by the harassment, including paying of monetary damages, punitive damages, attorney's fees and civil fines.

Contact DHR at (718) 741-8400 or visit its website at [www.dhr.ny.gov](http://www.dhr.ny.gov), which contains contact information for DHR's regional offices across New York State. Go to [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint) or call the DHR sexual harassment hotline at (800) HARASS3 for more information about filing a sexual harassment complaint. The website has a digital complaint process that can be completed via computer or mobile device from start to finish and a complaint form that can be downloaded, filled out and mailed to DHR. The hotline can also provide a referral to a volunteer attorney experienced in sexual harassment matters who can offer limited free assistance and counsel over the phone.

## **XIII. UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e et seq. An individual can file a complaint with EEOC anytime

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within 300 days from the most recent incident of the harassment. There is no cost to file a complaint with EEOC. EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred. If EEOC determines that the law may have been violated, EEOC will try to reach a voluntary settlement with the employer. If EEOC cannot reach a settlement, EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred but does not file a lawsuit.

Individuals may obtain relief in mediation, settlement or conciliation. In addition, federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” EEOC has district, area and field offices where complaints can be filed. Contact EEOC by calling (800) 669-4000 (TTY: (800) 669-6820), visiting [www.eeoc.gov](http://www.eeoc.gov) or emailing [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will automatically file the complaint with EEOC to preserve the right to proceed in federal court.

#### **XIV. LOCAL PROTECTIONS**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges should contact their local police department.


#### **XV. QUESTIONS REGARDING POLICY**

Any questions regarding this Policy should be directed to EEODD at (518) 471-4321.

#### **XVI. ADMINISTRATION OF POLICY**

The Executive Director shall be responsible for interpreting, implementing and administering this Policy. Such responsibility may include developing any operational and/or administrative policies and procedures necessary to carry out the intent of the Policy.



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## I. INTRODUCTION

The New York State Thruway Authority (Authority) is committed to maintaining a workplace free from sexual harassment. [Sexual harassment is against the law.](#)

Sexual harassment is a form of ~~sex~~[workplace](#) discrimination that violates Title VII of the federal Civil Rights Act of 1964 and the New York State Human Rights Law. ~~All employees are required to work in a manner that prevents sexual harassment in the workplace.~~ [The Authority recognizes that discrimination can be related to or affected by other identities beyond gender. While this Policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the same. More information can be found in the Executive Instruction entitled ILLEGAL DISCRIMINATION IN THE WORKPLACE.](#)


~~All employees, managers and supervisors are required to work in a manner that designed to prevents sexual harassment in the workplace.~~ [This Policy<sup>1</sup> is one component of the Authority's commitment to a discrimination-free work environment. All employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with the Authority. Employees can also file a complaint with a government agency or in court under federal, state or local anti-discrimination laws.](#)

## II. POLICY

- A. This Policy applies to all Authority employees, including interns, whether paid or unpaid, [applicants for employment](#) and [covered individuals<sup>2</sup> who are not direct employees of the Authority](#)~~non-employee~~<sup>2</sup>, regardless of immigration status.
- B. Sexual harassment of any type will not be tolerated. Any employee [or covered individual by this Policy](#) who engages in sexual harassment or retaliation will be subject to remedial ~~and/or disciplinary~~ action, [including appropriate discipline for employees \(e.g., counseling, suspension, termination\).](#) [In New York, sexual harassment does not need to be severe or pervasive to be illegal. Employees and covered individuals should not feel discouraged from reporting sexual harassment because they do not feel it is bad enough or, conversely, because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, administrative action for employees engaging in sexual harassment will depend on the degree of harassment and might include education and counseling.](#)

<sup>1</sup>While this Policy specifically addresses sexual harassment, harassment because of protected class and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity and criminal history.

<sup>2</sup>A ~~non-employee~~[covered individual](#) is someone who is (or is employed by) a contractor, subcontractor, independent contractor, vendor, consultant or anyone providing services or conducting business in the workplace. Protected ~~non-employees~~[covered individuals](#) also include ~~applicants for employment~~, patrons and visitors.

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[discipline or lead to suspension or termination when appropriate.](#)

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- C. Retaliation Prohibition: No one should fear reporting sexual harassment. No person covered by this Policy shall be subject to adverse action for Any employee or covered individual who reportsing an incident of sexual harassment, providing information or otherwise assisting in any investigation of a sexual harassment complaint is protected from retaliation so long as the person reasonably believes that they have witnessed or experienced such behavior. The Authority will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee who retaliates against anyone involved in a sexual harassment investigation will be subject to disciplinary administrative action, including discipline up to, and including, termination. All employees or non-employees covered individuals who believe they have been subject to such retaliation should inform a supervisor, manager or the Bureau of Equal Employment Opportunity and Diversity Development (EEODD). All employees or covered individuals non-employees who believe they have been a target of such retaliation may also seek relief from government agencies in other available forums as explained below in the section on Legal Protections.
- D. Sexual harassment is offensive, is a violation of the Authority's policies, is unlawful and may subject the Authority to liability for the harm experienced by targets of sexual harassment. Harassers as well as employers and supervisors who aid and abet such behavior by failing to report or act on harassment may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
- E. The Authority will conduct a prompt and thorough investigation that ensures due process for all parties whenever managers, supervisors or EEODD receive a complaint about sexual harassment or otherwise know of possible sexual harassment occurring. The Authority will keep the investigation confidential to the fullest extent possible. Effective Corrective action will be taken whenever the investigation finds sexual harassment is found to have occurred. In addition to any required administrative action, the Authority will also take steps to ensure a safe work environment for the employee(s) who experienced the harassment. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment. The failure to cooperate may result in administrative action by the Authority against the non-cooperating individual, including discipline up to, and including, termination.
- F. All employees and covered individuals are encouraged to report any harassment or behaviors that violate this Policy. Employees may complete a NEW YORK STATE

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EMPLOYEE DISCRIMINATION/SEXUAL HARASSMENT COMPLAINT (TA-N1030) (COMPLAINT) form to report harassment and file complaints. The COMPLAINT form is available on the Intranet or can be obtained by contacting EEODD. The COMPLAINT form is not required to file a complaint. Complaints reported verbally or by email will be treated with equal priority. An employee or covered individual who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

- G. Managers and supervisors are **required** to report any complaint they receive, or any harassment they observe or become aware of, to EEODD.
- H. This Policy applies to all employees and covered individuals~~non-employees~~ and all must follow and uphold this Policy. This Policy must be provided to all employees in person or digitally upon hiring, and should be posted prominently in all work locations and available on the Intranet to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

### III. WHAT IS “SEXUAL HARASSMENT”?

Sexual harassment is a form of sex/gender-based discrimination and is unlawful under federal, state and, where applicable, local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, sex stereotypes, gender expression, gender identity or the status of being transgender. Sexual harassment is not limited to sexual contact, touching or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender. The gender spectrum is nuanced. Training and information are available on EEODD’s Gender Identity and Expression Intranet page.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an employee or covered individual is treated worse because of their gender (perceived or actual), sexual orientation

or gender expression is considered a violation of this Policy. The intent of the behavior (e.g., making a joke) does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts.

Sexual harassment includes any unwelcome conduct which is either of a sexual nature, or ~~which is~~ directed at an individual because of that individual's sex, gender identity or expression (perceived or actual) when:

- ~~Such conduct has the~~ purpose or effect of this behavior unreasonably interfering ~~with~~ with an individual's work performance or creating ~~an~~ an intimidating, hostile or offensive work environment, ~~even if the reporting individual is~~ The impacted person does not need to be the intended target of the sexual harassment;
- Such conduct is made, either explicitly or implicitly, a term or condition of employment; or
- Submission to such conduct or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment. Such decisions can include what shifts and how many hours an employee might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- ~~A sexually harassing~~ Behaviors that contribute to a **hostile work environment** includes, but ~~are~~ is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory ~~statements or sexually~~ discriminatory statements ~~remarks made by someone~~ which are offensive or objectionable to the recipient, ~~which~~ cause the recipient discomfort or humiliation, or ~~which~~ interfere with the recipient's job performance.
- Sexual harassment also occurs when a person in authority or perceived to be in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any employee or covered individual ~~non-employee~~ who feels harassed should report the ~~conduct~~ behavior so any violation of this Policy can be corrected promptly. Any harassing conduct, even a single incident, ~~can be addressed under~~ is covered by this Policy.

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#### IV. EXAMPLES OF SEXUAL HARASSMENT

The following [list describes](#) types of acts [that](#) may be [unlawful](#) sexual harassment and are strictly prohibited. [It is just a sample of behaviors and shall not be considered exhaustive or determinative. Any employee or covered individual who believes they have experienced sexual harassment, even if it does not appear on this list, should report it:](#)

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body or poking another individual's body; or
  - Rape, sexual battery, molestation or attempts to commit these assaults [which may be considered criminal conduct outside the scope of this Policy. \(Local law enforcement should be contacted to pursue criminal charges.\)](#)
- Unwanted sexual [comments](#), advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning [the target's job performance evaluation, a promotion or other job benefits](#) ~~or~~ [detriments](#); or
  - [Subtle or obvious pressure for unwelcome sexual activities](#); ~~or~~
  - [Repeated requests for dates or romantic gestures, including gift-giving.](#)
- Sexually oriented gestures, noises, [remarks](#), jokes, [questions](#) or comments about an individual's sexuality, ~~or~~ sexual experience [or romantic history](#), which create a hostile work environment. [This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when employees are working remotely can create a similarly hostile work environment.](#)
- Sex stereotyping, [which](#) occurs when [someone's](#) conduct or personality traits are [judged based](#) ~~considered inappropriate simply because they may not conform to~~ other people's ideas or perceptions about how individuals of a particular sex should act or look, [such as](#):-
  - [Remarks regarding an employee's gender expression, such as wearing a garment typically associated with a different gender identity; or](#)

o Asking employees to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.

- ~~Derogatory comments directed at a person who has undergone sex reassignment surgery can be sexual harassment, just as comments about secondary sex characteristics of any person can be sexual harassment.~~
- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace or conducting Authority business in remote work locations.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity or gender expression ~~and the status of being transgender,~~ such as:
  - o Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the ~~h~~ job;
  - o Sabotaging an individual's work; ~~or~~
  - o Bullying, yelling or name-calling;
  - o Intentionally misusing an individual's preferred pronouns; or
  - o Creating different expectations for individuals based on their perceived identities (e.g., dress codes that place more emphasis on women's attire or leaving parents/caregivers out of meetings).

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## V. WHO CAN BE A TARGET OF SEXUAL HARASSMENT?

Sexual harassment can occur between ~~or among~~ any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. ~~A harasser can be a superior, subordinate, coworker or anyone in the workplace~~ including ~~a~~ a supervisor, subordinate, coworker, independent contractor, contract worker, vendor, client, customer or visitor.

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## VI. WHERE CAN SEXUAL HARASSMENT OCCUR?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees or covered individuals~~non-employees~~ are traveling for business or at employer sponsored events or parties. Calls, texts, emails and social media usage by employees or covered individuals~~non-employees~~ can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours, or when using virtual meeting platforms or messaging apps.

Sexual harassment can occur when employees are working remotely. Any behaviors outlined above that leave an employee feeling uncomfortable, humiliated or unable to meet their job requirements constitute harassment even if the employee or covered individual is at home or at another non-workplace location when the harassment occurs.

## VII. RETALIATION

~~Unlawful~~ Retaliation is unlawful. It can be any action by an employee or supervisor that punishes an individual upon learning of a harassment claim, could or discourages an individual from making a formal complaint or supporting a sexual harassment claim. ~~Adverse~~ These actions need not be job-related or occur in the workplace to constitute unlawful retaliation ~~(e.g., threats of physical violence outside of work hours).~~

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying reasonable accommodations, reduced hours or assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an employee as “difficult” and excluding them from projects to avoid “drama”;
- Undermining an individual’s immigration status;
- Reducing work responsibilities, passing over for a promotion or moving an individual’s desk to a less desirable office location;
- Threats of physical violence outside of work hours; or

- Disparaging someone on social media.

Such retaliation is unlawful under federal, state and, where applicable, local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- Made a complaint of sexual harassment, either internally or with any government anti-discrimination agency;
- Testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment by making a verbal or informal complaint to a supervisor, manager, EEODD or by simply informing a supervisor or manager of suspected harassment;
- Reported that another individual has been sexually harassed; or
- Encouraged a fellow employee or individual to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment nor insulate the reporting individual from any acts of harassment that they have engaged in or protect persons from any personnel action which otherwise would have been taken regardless of any participation in a protected activity.

## VIII. REPORTING SEXUAL HARASSMENT

Everyone must work towards preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to ensure employees feel safe at work and that workplaces are free from harassment. ~~The Authority cannot prevent or remedy sexual harassment unless it knows about it.~~ Any employee or covered individual ~~non-employee who has been subjected to behavior that may constitute sexual harassment~~ is encouraged to report such harassing behavior to a supervisor, manager or EEODD. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager or EEODD.

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Any employee witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can name the behavior as inappropriate. Physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace.

Reports of sexual harassment on behalf of oneself or another covered individual may be made verbally or in writing. A COMPLAINT form for submission of a written complaint is available on the Intranet or can be obtained by contacting EEODD, but it is not required. ~~All employees are encouraged to use this COMPLAINT form.~~ Employees using the COMPLAINT form to who are reporting sexual harassment on behalf of other employees ~~or non-employees~~ should use the COMPLAINT form and note that it is on behalf of another employee's behalf or non-employee.

Employees or covered individuals ~~non-employees~~ who believe they have been a target of sexual harassment may also seek assistance at any time in other additional available forums as explained in the section on Legal Protections.

## **IX. SUPERVISORY RESPONSIBILITIES**

Supervisors and managers have a responsibility to prevent sexual harassment. All supervisors and managers who receive a complaint or information about suspected sexual harassment, even if it is a rumor, observe what may be sexually harassing behavior or for



any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to EEODD. Supervisors and managers should not be passive and wait for an employee to make a claim of harassment. If they observe such behavior, they must act promptly. Supervisors and managers are held to a higher standard of conduct and are expected to model appropriate workplace behavior. They are responsible for any harassment or discrimination they know of or which they should have known.

Under the direction of EEODD, ~~S~~supervisors should also document the circumstances of any allegation, observation or rumored sexual harassment, including what actions were taken by the supervisor or manager to ascertain the facts.

Supervisors and managers are held to a higher standard of conduct and are expected to model appropriate workplace behavior. In addition to being subject to administrative action~~discipline~~ if they engaged in sexually harassing conduct themselves, supervisors and managers ~~will be subject to~~can also be subject to administrative action, up to and including discipline, for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue after they know about it.

Supervisors and managers will also be subject to ~~discipline~~administrative action, up to and including discipline, for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about harassment can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive and free from retaliation for them during and after any investigation.

## **X. COMPLAINT AND INVESTIGATION OF SEXUAL HARASSMENT**

*All* complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the ~~fullest~~ extent possible. All persons involved, including complainants, witnesses and alleged harassers, ~~will be afforded due process, as outlined below, to protect their rights~~deserve to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. The Authority will ~~not tolerate an employee's take disciplinary action against anyone engaging in~~ retaliation against ~~employees/individuals~~ who file complaints, support another's complaint or participate in ~~an harassment~~ investigations ~~regarding a violation of this Policy~~.

The Authority recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an employee. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward participants.

While the process may vary from case to case, investigations should be done in accordance with the following steps: Upon receipt of a complaint, EEODD will:

- Upon receipt of complaint, EEODD will eConduct an immediate review of the allegations, assess the appropriate scope of the investigation and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If a complaint is verbal, request that the individual ~~will be encouraged to~~ complete the COMPLAINT form in writing. If the complainant prefers not to complete the form or she refuses, EEODD will prepare a COMPLAINT form or equivalent documentation based on the verbal reporting.
- Take steps to obtain, review and preserve records sufficient to assess the allegations, including if documents, photos, emails or phone records ~~are that may be~~ relevant to the investigation; ~~take steps to obtain and preserve them.~~
- Consider and implement appropriate record Rrequest, ~~and review all relevant documents, and preservation measures,~~ including ~~all~~for electronic communications.
- Seek to interview all parties involved, including any relevant witnesses.
- Create written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;

- A timeline of events;
- A summary of [any](#) prior relevant incidents [disclosed in the investigation](#), reported or unreported; and
- The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual(s) who reported [the harassment](#) and the individual(s) about whom the complaint was made [that the investigation has been completed of the final determination](#) and implement any corrective actions identified in the written documentation.
- Inform the individual(s) who reported [the harassment](#) of the right to file a complaint or charge externally as outlined in the next section.

## **XI. LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

Sexual harassment is not only prohibited by the Authority but is also prohibited by federal, state and, where applicable, local law.

Aside from the Authority’s internal process, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, employees may seek the legal advice of an attorney.

[In addition to those outlined below, employees in certain industries may have additional legal protections.](#)

## **XII. NEW YORK STATE HUMAN RIGHTS LAW (HRL)**

The HRL, ~~codified as~~ N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State ~~with regard to sexual harassment~~ and protects employees and [covered individuals](#) ~~non-employees~~ regardless of immigration status. A complaint alleging violation of the HRL may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints ~~of sexual harassment with DHR~~ may be filed ~~with DHR~~ any time **within onethree years** of the harassment. If an individual ~~did does~~ not file ~~a complaint~~ with DHR, they can ~~suebring a lawsuit~~ directly in state court under the HRL **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to ~~EEODDthe Authority~~ does not extend the time to file with DHR or ~~instate~~ court. The ~~one year or~~ three years ~~areis~~ counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases ~~are forwarded~~ ~~to receive~~ a public hearing before an administrative law judge. If sexual harassment is found ~~after at the~~ hearing, DHR has the power to award relief, ~~which~~ **Relief** varies but ~~it~~ may include requiring the ~~Authority employer~~ to take action to stop the harassment or ~~redressrepair~~ the damage caused ~~by the harassment~~, including paying of monetary damages, **punitive damages**, attorney's fees and civil fines.

Contact DHR at (718) 741-8400(888) 392-3644 or visit ~~its website at~~ [www.dhr.ny.gov](http://www.dhr.ny.gov), ~~which contains contact information for DHR's regional offices across New York State.~~ Go to [www.dhr.ny.gov/complaint](http://www.dhr.ny.gov/complaint) or call the DHR sexual harassment hotline at (800) **HARASS3** for more information about filing a **sexual harassment** complaint. ~~The website has a digital complaint process that can be completed via computer or mobile device from start to finish~~ ~~The website has and~~ a complaint form that can be downloaded, filled out, ~~notarized~~ and mailed to DHR. ~~The hotline can also provide a referral to a volunteer attorney experienced in sexual harassment matters who can offer limited free assistance and counsel over the phone.~~ ~~The website also contains contact information for DHR's regional offices across New York State.~~

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### **XIII. CIVIL RIGHTS ACT OF 1964 UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

~~The United States Equal Employment Opportunity Commission (EEOC)~~ enforces federal anti-discrimination laws, including Title VII of the ~~1964~~ federal Civil Rights Act, ~~of 1964~~ ~~(codified as~~ 42 U.S.C. § 2000e et seq.). An individual can file a complaint with EEOC anytime within 300 days **from the most recent incident** of the harassment. There is no cost

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to file a complaint with EEOC. EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, ~~at which point EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. If EEOC determines that the law may have been violated, EEOC will try to reach a voluntary settlement with the employer. If EEOC cannot reach a settlement, EEOC (or the Department of Justice in certain cases) will decide whether to file a lawsuit. EEOC will issue a Notice of Right to Sue permitting workers to file a lawsuit in federal court if the EEOC closes the charge, is unable to determine if federal employment discrimination laws may have been violated, or believes that unlawful discrimination occurred but does not file a lawsuit.~~

~~EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties.~~ Individuals may obtain relief in mediation, settlement or conciliation. In addition, Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” EEOC has district, area and field offices where complaints can be filed. Contact EEOC by calling (800) 669-4000 (TTY: (800) 669-6820), visiting [www.eeoc.gov](http://www.eeoc.gov) or emailing [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will [automatically](#) file the complaint with EEOC to preserve the right to proceed in federal court.

#### **XIV. LOCAL PROTECTIONS**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.


#### **~~XV. CONTACT THE LOCAL POLICE DEPARTMENT~~**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. ~~To report a possible crime, individuals~~ Those wishing to pursue criminal charges should contact their local police department.

#### **~~XVI. QUESTIONS REGARDING POLICY~~**

Any questions regarding this Policy should be directed to EEODD at (518) 471-4321.



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## XVII. ADMINISTRATION OF POLICY

The Executive Director shall be responsible for interpreting, implementing and administering this Policy. Such responsibility may include developing any operational and/or administrative policies and procedures necessary to carry out the intent of the Policy.