

CHAPTER 38D

PROCUREMENT OF GOODS AND SERVICES

Authority

P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c. 137, (N.J.S.A. 52:18A-235 et seq.) (enabling statutes); and P.L. 1997, c. 399 (N.J.S.A. 52:34-9.1 et seq.) (related authority).

Source and Effective Date

R.2012 d.086, effective April 4, 2012.
See: 43 N.J.R. 3168(a), 44 N.J.R. 1558(a).

Chapter Expiration Date

Chapter 38D, Procurement of Goods and Services, expires on April 4, 2019.

Chapter Historical Note

Chapter 38D, Procurement of Goods and Services, was adopted by R.2005 d.61, effective February 7, 2005. See: 36 N.J.R. 4096(a), 37 N.J.R. 522(a).

Chapter 38D, Procurement of Goods and Services, was readopted as R.2012 d.086, effective April 4, 2012. As a part of R.2012 d.086, Subchapter 4, Category Two Selection Procedures, Subchapter 5, Category Three Selection Procedures, Subchapter 7, Category Five Selection Procedures, Subchapter 8, Category Six Selection Procedures and Subchapter 9, Category Seven Selection Procedures, were repealed; Subchapter 4, Selection Procedures—Agreements Exceeding the State Bid Threshold, as Adjusted, Pursuant To N.J.S.A. 52:34-7b, Subchapter 5, Term Agreements, and Subchapter 7, Protests and Hearing Procedures, were adopted as new rules; Subchapter 3, Category One Selection Procedures, was renamed Selection Procedures—Agreements not Exceeding the State Bid Threshold Pursuant to N.J.S.A. 52:34-7b; and Subchapter 6, Category Four Selection Procedures, was renamed Waiver of Advertising, effective May 7, 2012. See: 43 N.J.R. 3168(a), 44 N.J.R. 1558(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

19:38D-1.1 Purpose and scope of rules

This chapter is designed to establish the procedures applicable to the award of contracts by the Authority for goods and services required for implementation of the school construction program, excluding services subject to P.L. 1997, c. 399, N.J.S.A. 52:34-9.1 et seq., and N.J.A.C. 19:38C.

Amended by R.2012 d.086, effective May 7, 2012.
See: 43 N.J.R. 3168(a), 44 N.J.R. 1558(a).
Rewrote the section.

19:38D-1.2 Definitions

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

“Act” means the “Educational Facilities Construction and Financing Act,” P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.) as amended, which mandates the school construction program.

“Agreement” means the written agreement between the Authority and the vendor for the provision of goods and/or services.

“Authority” or “SDA” means the New Jersey Schools Development Authority, an entity formed pursuant to P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., as successor to the

New Jersey Schools Construction Corporation. The Authority is statutorily charged with undertaking and funding school facilities projects, pursuant to the Act.

“Board” means the governing body of the Authority, consisting of members of the Authority as outlined in N.J.S.A. 52:18A-237.

“Compensation” means the payment due the vendor pursuant to the agreement.

“Corporation” or “SCC” means the New Jersey Schools Construction Corporation, the entity formed pursuant to N.J.S.A. 34:1B-159 and the predecessor to the Authority, which was abolished by P.L. 2007, c. 137.

“Department” means the New Jersey Department of Education.

“Emergent project” means a capital project necessitating expedited review and, if applicable, approval, in order to alleviate a condition that, if not corrected on an expedited basis, would render a building or facility so potentially injurious or hazardous that it causes an imminent peril to the health and safety of students or staff, as defined by N.J.A.C. 6A:26-1.2.

“Fee proposal” means the proposal submitted by a vendor, in the form and manner provided in the request for qualifications or request for proposals, which specifies the fees proposed for the provision of goods and/or services.

“Goods” means fixtures, furnishings, equipment, technology and any other items the procurement of which the Authority deems necessary for the school construction program. For purposes of this chapter, “goods” shall not include materials to be provided in connection with the provision of services pursuant to an agreement entered into by the Authority pursuant to N.J.A.C. 19:38C or N.J.S.A. 52:18A-243.

“Key personnel” means those persons named by a vendor in response to a requirement in an RFQ or RFP for specific identification of employees or personnel having a responsible role in the successful delivery of goods or services proposed by a vendor.

“Moral integrity review” means an investigation, performed by the Authority or members of the New Jersey State Police or other investigative body on behalf of the Authority, of a vendor that seeks to enter an agreement with the Authority.

“Notice of award” means a written notice issued to a vendor by the Authority indicating that the vendor has been selected to provide certain goods or services pursuant to an Authority procurement process, and that upon the Authority’s receipt of certain required documentation, the Authority intends to enter an agreement with the vendor for the provision of those goods and/or the performance of those services.

“Other facilities” means those facilities that are not school facilities projects as defined by the Act, namely, athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration.

“Pre-qualified” or “pre-qualification” means the approval of a vendor by the Authority pursuant to N.J.A.C. 19:38A.

“Proposal” means the response submitted by a firm with respect to a request for qualifications or a request for proposals.

“Protest” means a challenge to a decision, statement, action, or alleged inaction of the Authority.

“Ranking” means the process of listing responsive vendors in order of highest to lowest total scores, based upon selection criteria set forth in the RFQ and/or RFP.

“Request for proposals” or “RFP” means the solicitation issued by the Authority in connection with the selection of a vendor.

“Request for qualifications” or “RFQ” means the request for statements of qualifications issued by the Authority seeking submissions from vendors including statements of qualifications, experience and/or organizational information, as well as any additional information deemed necessary by the Authority, in connection with the selection of a vendor.

“Schedule of goods” means the goods required to be provided by a vendor under an agreement.

“School construction program” means the program of school facilities projects and related activities undertaken by the Authority.

“School facilities project” means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction, or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs, and expenses incurred in connection with the project.

“School facility” means and includes any structure, building or facility used wholly or in part for academic purposes by a district, and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities, as elsewhere defined herein.