

## CHAPTER 12

**DIVISION OF PURCHASE AND PROPERTY: PURCHASE BUREAU AND CONTRACT COMPLIANCE AND ADMINISTRATION UNIT; SURPLUS PROPERTY UNIT, COMPUTER DISTRIBUTION PROGRAM**

**Authority**

N.J.S.A. 10:5-36(k) and (o), 52:18A-30(d), 52:25-1 et seq., 52:27H-6(f), 52:32-17 et seq., 52:34-6 et seq., 52:34-12(d), 52:34-13; and Executive Orders No. 34(1977) and No. 189(1988).

**Source and Effective Date**

R.2005 d.128, effective March 22, 2005.  
See: 36 N.J.R. 5230(a), 37 N.J.R. 1218(a).

**Chapter Expiration Date**

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from March 22, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule is readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

**Chapter Historical Note**

Chapter 12, Purchase Bureau, was filed and became effective prior to September 1, 1969.

Subchapter 7, Debarment, Suspension and Disqualification of a Person(s), was adopted as R.1976 d.378, effective on December 1, 1976. See: 8 N.J.R. 490(a), 9 N.J.R. 47(b).

Chapter 12, Purchase Bureau, was repealed and Chapter 12, Purchase Bureau, was adopted as new rules by R.1979 d.132, effective March 30, 1979. See: 11 N.J.R. 95(a), 11 N.J.R. 264(a).

Pursuant to Executive Order No. 66(1978), Chapter 12, Purchase Bureau, was readopted as R.1984 d.328, effective August 6, 1984. See: 16 N.J.R. 867(a), 16 N.J.R. 2152(a).

Chapter 12 Purchase Bureau, was readopted as Emergency Rules, former Subchapter 6, Contracts for Small Businesses, Female Businesses and Minority Businesses, was emergency recodified as N.J.A.C. 17:13, and former Subchapter 7, Debarment, Suspension and Disqualification of a Person(s), was emergency recodified as Subchapter 6 by R.1989 d.481, effective August 14, 1989, to expire October 13, 1989. See: 21 N.J.R. 2810(a). The concurrent proposal for the emergency readoption of Chapter 12 and emergency recodifications of former Subchapters 6 and 7 was adopted as R.1989 d.554, October 13, 1989. See: 21 N.J.R. 2810(a), 21 N.J.R. 3545(b).

The Executive Order No. 66(1978) expiration date of Chapter 12, Purchase Bureau, was extended by gubernatorial directive from October 13, 1994 to February 28, 1995. See: 26 N.J.R. 4421(b).

Pursuant to Executive Order No. 66(1978), Chapter 12, Purchase Bureau, was readopted as R.1995 d.18, effective December 9, 1994. See: 26 N.J.R. 3248(a), 26 N.J.R. 4166(a), 27 N.J.R. 128(b).

Pursuant to Executive Order No. 66(1978), Chapter 12, Purchase Bureau, was readopted as "Division of Purchase and Property: Purchase Bureau and Contract Compliance and Administration Unit" by R.1999 d.407, effective October 22, 1999, and former Subchapter 3, Hearing Procedures, was repealed and Subchapter 3, Protest, was adopted as new rules by R.1999 d.407, effective November 15, 1999. See: 31 N.J.R. 2301(a), 31 N.J.R. 3742(b).

Subchapter 1A, Procurement Methodology, was adopted as R.2001 d.101, effective March 19, 2001. As part of this adoption, Subchapter 5,

Cooperative Purchasing, was recodified to 17:12-1A.4. See: 33 N.J.R. 20(a), 33 N.J.R. 1014(a). Subchapter 9, Surplus Property Unit, Computer Distribution Program, was adopted as R.2000 d.172, effective April 17, 2000. See: 32 N.J.R. 392(b), 32 N.J.R. 1415(b).

Chapter 12, Division of Purchase and Property: Purchase Bureau and Contract Compliance and Administration Unit; Surplus Property Unit, Computer Distribution Program, was readopted as R.2005 d.128, effective March 22, 2005. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

Battle for state contracts: What process is due in a challenge to a state contract award? Patrick D. Kennedy & Maev E. Cannon, 180 N.J.Law. 16 (Mag.) (Oct./Nov. 1996).

## CHAPTER TABLE OF CONTENTS

## SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

- 17:12-1.1 General course and method of operation
- 17:12-1.2 Source for public information
- 17:12-1.3 Definitions
- 17:12-1.4 Application of rules

## SUBCHAPTER 1A. PROCUREMENT METHODOLOGY

- 17:12-1A.1 Formal, advertised, sealed bidding
- 17:12-1A.2 Exceptions to formal, advertised, sealed bidding
- 17:12-1A.3 Cooperative purchasing
- 17:12-1A.4 Extension of contracts for local use
- 17:12-1A.5 Use of Federal Supply Schedules

## SUBCHAPTER 2. FORMAL, ADVERTISED, SEALED BIDDING PROCEDURES

- 17:12-2.1 Advertising
- 17:12-2.2 Requirements for bidding
- 17:12-2.3 (Reserved)
- 17:12-2.4 Bid security
- 17:12-2.5 Performance security
- 17:12-2.6 Bid openings
- 17:12-2.7 Evaluation of proposals
- 17:12-2.8 Poor performance as a basis for bypass of low bidder
- 17:12-2.9 (Reserved)
- 17:12-2.10 Tie bids
- 17:12-2.11 Bid errors
- 17:12-2.12 Registration of corporations and other business entities
- 17:12-2.13 Preference laws; out-of-State vendors
- 17:12-2.14 Mutual cancellation of contract

## SUBCHAPTER 3. PROTEST

- 17:12-3.1 Informal hearings; subject matter
- 17:12-3.2 Protest procedures; challenges to a specification
- 17:12-3.3 Protest procedures; challenge to a contract award decision
- 17:12-3.4 Discovery procedures

## SUBCHAPTER 4. COMPLAINT PROCEDURES

- 17:12-4.1 Purpose and scope of subchapter
- 17:12-4.2 General
- 17:12-4.3 Filing of complaints; subject matter
- 17:12-4.4 Time frames
- 17:12-4.5 Resolution of complaints
- 17:12-4.6 Rejection of goods and/or services
- 17:12-4.7 Emergency situations
- 17:12-4.8 Effect of vendor non-compliance with contract provisions
- 17:12-4.9 Discovery procedures

## SUBCHAPTER 5. (RESERVED)

## SUBCHAPTER 6. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF A PERSON(S)

- 17:12-6.1 Purpose and scope
- 17:12-6.2 Definitions
- 17:12-6.3 Causes for debarment of a person(s)
- 17:12-6.4 Conditions affecting the debarment of a person(s)
- 17:12-6.5 Procedures, period of debarment and scope of debarment affecting the debarment of a person(s)
- 17:12-6.6 Causes for suspension of a person(s)
- 17:12-6.7 Conditions for suspension of a person(s)
- 17:12-6.8 Procedures, period of suspension and scope of suspension affecting the suspension of a person(s)
- 17:12-6.9 The extent of debarment, suspension or disqualification
- 17:12-6.10 Prior notice by the Director
- 17:12-6.11 List of debarred, suspended or disqualified persons
- 17:12-6.12 Director's authority to contract

## SUBCHAPTERS 7 THROUGH 8. (RESERVED)

## SUBCHAPTER 9. SURPLUS PROPERTY UNIT, COMPUTER DISTRIBUTION PROGRAM

- 17:12-9.1 Description of organization and program
- 17:12-9.2 Purpose and intent
- 17:12-9.3 Definitions
- 17:12-9.4 Procedures
- 17:12-9.5 Notification of availability
- 17:12-9.6 Condition of eligible computers and items of surplus peripheral equipment distributed hereunder

## SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION

**17:12-1.1 General course and method of operation**

(a) The Division of Purchase and Property, in and of the New Jersey Department of the Treasury, provides centralized procurement and related services to agencies of the Executive Branch of State government. Within its statutory framework, the primary mission of the Division is to procure, in a timely and effective manner, the goods and services necessary for the daily operation of State government. As it relates to procurement, the Division includes the Purchase Bureau and the Contract Compliance and Administration Unit ("CCAU"). The Purchase Bureau is primarily responsible for the State's procurement process. CCAU is responsible for ensuring that using agencies comply with State procurement guidelines and that contract vendors fulfill their contractual obligations. This chapter sets forth the rules which apply to the Division, public entities and vendors participating in the State's contracting process.

(b) The Director of the Division of Purchase and Property is charged with the responsibility for establishing contracts and issuing purchase orders, the price of which is to be paid with State funds or funds in the State's custody and control, and occasionally those contracts involving no cost to the State or those generating revenue for the State. If the aggregate amount involved does not exceed the threshold established pursuant to N.J.S.A. 52:34-7, any purchase or contract may

be made, negotiated or awarded by the Director without advertising in any manner the Director may deem effective and practicable to permit full and free competition.

(c) When the aggregate amount exceeds the threshold established pursuant to N.J.S.A. 52:34-7, the request for proposal ("RFP") shall permit such full and free competition as is consistent with the procurement of goods and services necessary to meet the requirements of the using agency or agencies. Any such purchase or contract where the cost or contract price exceeds the threshold referenced above may, with the written approval of the State Treasurer, be made, negotiated or awarded by the Director without advertising when the subject matter or the circumstances of the procurement are as described in N.J.S.A. 52:34-9 and/or 52:34-10.

(d) The Director may delegate to staff within the Division of Purchase and Property the signing of purchase orders on the Director's behalf for such amounts as the Director may establish from time to time and implement through the issuance of policy memoranda.

(e) When deemed to be in the best interest of the State, the Director may authorize the award of contracts on the following bases:

1. Line item contract;
2. Single-source term contract;
3. Multi-source term contract;
4. Waiver of advertising contract;
5. Prequalification contract;
6. Purchasing agreements with another state or other states, political subdivisions or agencies thereof to meet domestic preparedness and homeland security needs of this State; or
7. Purchasing/contracting with vendors having Federal Supply Schedule contracts for products or services needed to meet domestic preparedness and homeland security needs of this State.

As amended, R.1980 d.142, effective April 7, 1980.

See: 12 N.J.R. 158(a), 12 N.J.R. 293(a).

Emergency amendment, R.1989 d.481, effective August 14, 1989 (expired October 13, 1989).

See: 21 N.J.R. 2810(a).

In (b) and (c), aggregate amount of \$2,500 changed to threshold established by N.J.S.A. 52:34-7. Subsection (e) added.

Adopted concurrent proposal, R.1989 d.554, effective October 13, 1989.

See: 21 N.J.R. 2810(a), 21 N.J.R. 3545(b).

Provisions of emergency amendment R.1989 d.481 readopted without change.

Amended by R.1999 d.407, effective November 15, 1999.

See: 31 N.J.R. 2301(a), 31 N.J.R. 3742(b).

Rewrote the section.

Amended by R.2005 d.128, effective April 18, 2005.

See: 36 N.J.R. 5230(a), 37 N.J.R. 1218(a).

Rewrote the section.