

CHAPTER 44
STATE COMPTROLLER

Authority

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Chapter Historical Note

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**SUBCHAPTER 1. OFFICE OF THE STATE
COMPTROLLER**

17:44-1.1 Purpose and scope

(a) The rules in this chapter set forth the organization and function of OSC, explain the audit process and specify the documents and information required of contracting units subject to contract review.

(b) The provisions of this chapter apply to all covered entities and contracting units as defined in N.J.A.C. 17:44-1.2.

17:44-1.2 Definitions

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

“Bid protest” means any written challenge to a contract specification, to a bid for a contract or to a contract award.

“Contract” means an agreement supported by consideration and enforceable at law. Examples include, but are not limited to: grants supported by consideration, purchases of goods or services, leases, concession agreements, agreements for sale, loan agreements, agreements with entities to indemnify or insure, agreements to join certain shared service agreements including joint insurance funds, brokerage agreements, land transactions (excluding land condemnations), certain memoranda of understanding, purchase orders and third party contracts.

“Contract partner” means any contractor, vendor, lessee or lessor, buyer or seller, concessionaire, grantee or other party to a contract.

“Contracting unit” means any entity subject to contract review pursuant to N.J.S.A. 52:15C-10. Contracting units include, but are not limited to: the principal departments in the Executive Branch of State government, any independent State authority, commission, instrumentality and agency and any State or county college or university and any unit of local government including, but not limited to, a county, municipality and board of education. The definition also includes any board, commission, committee, authority or agency that such entities have created or to which the entities have delegated any power to enter into contracts. For example, if any covered entity has created a non-profit corporation that exercises delegated powers to enter into a contract, the non-profit corporation shall comply with these regulations when exercising delegated powers.

“Cooperative purchasing agreement” means the extension of a contract entered into by a contracting unit for the use and benefit of other contracting units, such as pursuant to N.J.S.A. 52:34-6.2 or 40A:11-11(6).

“Covered entity” means any entity subject to audit pursuant to N.J.S.A. 52:15C-8 and includes, but is not limited to: all units in the Executive Branch of State government and any entity exercising executive branch authority, public institution of higher education, independent State authority, unit of local government and board of education.

“Emergency procurement” means a contract entered into under an emergency condition that is a threat to public health, welfare or safety.

“Evaluation committee” means those persons appointed to evaluate the merits of a response to a solicitation for bid, request for proposals (RFP), request for qualifications (RFQ), expression of interest (EOI) or other competitive solicitation for a contract when the formation of such a committee is required by the procurement process, by law, regulation, Executive Order or internal operating procedure of the contracting unit.

“OSC” means the New Jersey Office of the State Comptroller.

“Performance audit” means an audit conducted in accordance with Generally Accepted Government Auditing Standards issued by the U.S. Government Accountability Office to evaluate the performance and operations of a covered entity, reduce costs and facilitate decision making by parties with the responsibility to oversee or initiate corrective action.

“Procurement process” means any method used to obtain goods or services, land, leaseholds or concessions and includes, but is not limited to: bidding, competitive contracting, negotiations, request for proposals, expressions of interest, request for qualifications, requests for offerings or quotes.

“Proprietary” means goods or services of a specialized nature that are protected by trademark, patent or copyright or made, produced or distributed by one vendor or manufacturer. Specifications are proprietary if they are restricted to a brand name product.

“Shall” denotes the imperative.

“Sole source provider contract” means a contract awarded for goods or services when the provider is the only available source of the goods or services.

“Third party contract” means a contract between two or more parties, the performance of which is intended to benefit directly a third party. Examples include Department of Human Services (DHS) contracts with a vendor to provide services for non-employees of DHS eligible for those services and Department of Corrections (DOC) contracts with a vendor to provide services for prisoners in halfway houses.

17:44-1.3 Independent Office of the State Comptroller

(a) OSC is in, but not of, the New Jersey Department of the Treasury. As such, it operates as an independent Office that promotes the integrity and transparency of government operations by, among other things, reviewing public contracts and conducting independent audits of covered entities in accordance with Generally Accepted Government Auditing Standards.

(b) The State Comptroller is the administrator of OSC and is appointed by the Governor, with the advice and consent of the Senate.

(c) OSC coordinates audit functions, investigations and performance reviews with the following entities: Department of Law and Public Safety, Department of Education, Department of the Treasury, Department of Transportation, Division of Local Government Services in the Department of Community Affairs, Local Finance Board and Office of the State Auditor.

17:44-1.4 Establishment and functions of the Audit Division

(a) There is established within OSC an Audit Division. The Audit Division, among other functions, conducts research and performs preliminary evaluations which may lead to recommendations regarding the need for an audit; conducts performance audits of the Executive Branch of State government, including all entities exercising executive branch authority, public institutions of higher education and independent State authorities; and conducts performance audits of local government units and boards of education.

(b) The Audit Division conducts audits that assess the performance and management of the programs of covered entities. The Audit Division also provides guidance concerning the procurement of auditors by covered entities.

(c) OSC is a recognized sponsor of continuing professional education by the National Registry of Continuing Professional Education Sponsors and provides training through in-house programs and outside conferences in accord with the Generally Accepted Government Auditing Standards promulgated by the U.S. Government Accountability Office. OSC training qualifies toward auditors’ bi-annual mandatory 80 hours of continuing professional education credits.

17:44-1.5 Establishment and functions of the Procurement Division

(a) There is established within OSC a Procurement Division. The Procurement Division monitors and reviews the solicitation and award process for contracts under OSC’s jurisdiction to ensure that those processes comply with applicable public contracting laws, rules, regulations and policies. The Procurement Division provides guidance, in the context of its reviews, to contracting units regarding appropriate procurement processes.