

**CHAPTER 19
CLASSIFICATION AND PREQUALIFICATION
OF FIRMS**

Authority

N.J.S.A. 52:35-1 et seq.

Source and Effective Date

R.2003 d.252, effective June 1, 2003.
See: 35 N.J.R. 1701(a), 35 N.J.R. 2881(a).

Chapter Expiration Date

Chapter 19, Classification and Prequalification of Firms, expires on June 1, 2008.

Chapter Historical Note

Chapter 19, Rules Governing the Classification and Qualification of Bidders, was adopted as R.1970 d.91, effective July 31, 1970. See: 2 N.J.R. 57(c), 2 N.J.R. 78(b).

Pursuant to Executive Order No. 66(1978), Chapter 19, Rules Governing the Classification and Qualification of Bidders, was readopted as R.1990 d.193, effective March 8, 1990. See: 22 N.J.R. 329(b), 22 N.J.R. 1150(b).

Chapter 19, Rules Governing the Classification and Qualification of Bidders, was repealed and Chapter 19, Classification and Qualification of Bidders, was adopted as new rules by R.1995 d.90, effective February 21, 1995, operative March 23, 1995. See: 26 N.J.R. 4747(b), 27 N.J.R. 755(a).

Pursuant to Executive Order No. 66(1978), Chapter 19, Classification and Qualification of Bidders, was readopted as R.2000 d.76, effective January 28, 2000. See: 31 N.J.R. 4237(a), 32 N.J.R. 712(a).

Chapter 19, Classification and Qualification of Bidders, was repealed and Chapter 19, Classification and Prequalification of Firms, was adopted as emergency new rules by R.2003 d.171, effective April 2, 2003 (to expire June 1, 2003). See: 35 N.J.R. 1701(a).

Chapter 19, Classification and Prequalification of Firms, was adopted as new rules by R.2003 d.252, effective June 1, 2003. See: Source and Effective Date.

Law Review and Journal Commentaries

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

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SUBCHAPTER 1. GENERAL PROVISIONS

17:19-1.1 Definitions

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

“Affiliates” or “related parties” means firms and/or persons having an overt or covert relationship such that any one of them directly or indirectly controls or has power to control another.

“Agency of government” means any Federal, State, regional, county or local government agency, in this or any other state, including any department, division, commission, authority, office, branch, section and political subdivision or other governmental or quasi-governmental entity.

“Classification” means the process and product of assigning specific construction categories or trades and the aggregate ratings which define the eligibility of firms to engage in public work as determined by the Division of Property Management and Construction in the Department of the Treasury in accordance with this chapter.

“Debarment” means an exclusion from public work contracting for a definite period of time.

“Deputy Director” means a Deputy Director of the Division of Property Management and Construction in the Department of the Treasury or the Deputy Director’s duly authorized representative.

“Director” means the Director of the Division of Property Management and Construction in the Department of the Treasury or the Director’s duly authorized representative.

“Disqualification” means exclusion from public work contracting until specific conditions or requirements are satisfied or denial or revocation of the opportunity to bid on or engage in a particular public work contract.

“DPMC” means the Division of Property Management and Construction in the Department of the Treasury.

“DPMC 27” means the request for classification form to be submitted by a firm seeking classification.

“Firm” means any company, firm, sole proprietorship, partnership, association, corporation, joint stock company, limited liability company, or other business entity and their lessees, trustees, assignees or receivers.

“Public work” means any public building or other public betterment or improvement constructed, repair or improved wholly or in part at the expense of any agency of government required or permitted to use DPMC’s classification of contractors.

“Significant project” means a project equal to or greater than the average dollar value of completed projects for the previous two years. These projects may be public projects, private projects, or a combination of the two.

“State” means the State of New Jersey, or any of the departments or agencies in the executive branch of government with the lawful authority to engage in contracting.

“Suspension” means an exclusion from public work contracting for a period of time, pending the completion of an investigation, legal proceedings or administrative proceedings.

Amended by R.2000 d.76, effective February 22, 2000.

See: 31 N.J.R. 4237(a), 32 N.J.R. 712(a).

Inserted “Affiliate” or “related party”, “Agency of government” and “Division”; in “Director”, substituted references to the Division of Property Management and Construction for references to the Division of Building and Construction; in “Person”, substituted a reference to partnerships for a reference to copartnerships; and rewrote “Questionnaire” as “Request for Classification or Questionnaire”.

SUBCHAPTER 2. RULES

17:19-2.1 Statements required from firms requesting classification

(a) Only those firms holding a valid classification issued by DPMC shall be eligible to bid for work on a public work project, unless otherwise permitted by law. In addition, no bid proposal for a public work project shall be accepted unless every subcontractor that is required by law, the bid advertisement, or the bid documents, to be named in the bid proposal holds a valid classification issued by DPMC. Said classification and rating must be valid on the bid due date for the project.

(b) Each DPMC-27 shall be completed in its entirety and all questions must be answered and all requested information must be provided. Incomplete submissions will not be processed by DPMC. All financial statements shall conform with generally accepted accounting principles and be completed by either a certified public accountant (CPA) or public accountant, pursuant to N.J.S.A. 45:2B-42 et seq., who is independent of and not an employee of the firm for which the financial statements are being provided. Information required by the DPMC-27 includes:

1. A financial statement, which may be a certified audited statement, review statement, or compilation of statements, depending upon the aggregate rating being sought by the firm. The firm must submit its most recent financial statement, which shall not be more than 12 months old. The financial statement shall include a cover letter signed by the public accountant or CPA who prepared the document. The financial statement shall include at a minimum a balance sheet, related statements of income and retained earnings and cash flows and notes to financial statements in complete detail and shall comprise at least a six-month accounting cycle. The certified audited financial statements shall have an unqualified opinion.

- i. Submission of a compilation of financial statements will limit a firm’s maximum aggregate rating to not more than \$5,000,000.

- ii. Submission of a CPA review of financial statements will limit a firm’s maximum aggregate rating to not more than \$15,000,000.

- iii. Submission of a CPA’s certified audited financial statement will be required for aggregate ratings exceeding \$15,000,000.