

CHAPTER 38

**PROCEDURES FOR BIDDING FOR THE NEW
JERSEY SCHOOLS CONSTRUCTION
CORPORATION'S SCHOOL FACILITIES PROJECTS
FOR THE SCHOOLS CONSTRUCTION PROGRAM**

Authority

N.J.S.A. 18A:7G-35 through 37, 18A:17G-39
and 34:1B-5.7; and Executive Order No. 24 (2002).

Source and Effective Date

R.2006 d.193, effective May 15, 2006.
See: 37 N.J.R. 3801(a), 4207(a), 38 N.J.R. 2199(a).

Chapter Expiration Date

Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, expires on May 15, 2011.

Chapter Historical Note

Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was adopted as new rules by R.2006 d.193, effective May 15, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

19:38-1.1 Applicability

This chapter applies to all construction contracts with the New Jersey Schools Construction Corporation except for design-build contracts. "Design-build contract" means a written contract, entered into between a contractor and the Corporation, which provides both for construction services and for the performance of architectural services by an architect retained by the contractor pursuant to a separate written contract.

19:38-1.2 Definitions

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

"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, political subdivision or other governmental or quasi-governmental entity.

"Aggregate Rating" means the limit of the outstanding dollar value of all contracts, public and private, which a firm may perform at a given time as assigned by the New Jersey Schools Construction Corporation's Notice of Prequalification in effect at the time of the contractor's bid which shall be identical to that which is assigned by the New Jersey Department of Treasury, Division of Property Management and Construction. Should the Division of Property Management and Construction modify a firm's aggregate rating after the Corporation has issued a Notice of Prequalification, the Aggregate Rating issued by the Corporation is considered modified to be identical to that of the Division of Property Management and Construction.

"Bid" means the Project Rating Proposal and the Price Proposal.

"Bid advertisement" means the advertisement by the New Jersey Schools Construction Corporation setting forth the information as required by N.J.S.A. 34:1B-5.7 and shall be part of the contract documents.

"Bid documents" means the bid advertisement, the project manual, general conditions, supplemental conditions, plans, specifications, scopes of work, Instructions to Bidders, addenda, form of Project Rating Proposal, form of Price Proposal, and any other documents provided to the bidder by the Corporation prior to the submission of the Price Proposal.

"Contract" means the entire and integrated agreement between the firm and the New Jersey Schools Construction Corporation encompassing all of the contract documents.

“Contract documents” means the bid advertisement, the executed form of contract, project manual, general conditions, supplemental conditions, plans, specifications, scopes of work, Instruction to Bidders, addenda, Project Rating Proposal, Price Proposal, executed change orders, other amendments, and all exhibits, appendices and documents attached to or referenced in any of the foregoing materials.

“Corporation” means the New Jersey Schools Construction Corporation.

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

“DPMC 27” means the request for classification form to be submitted to the DPMC by a firm seeking classification with the DPMC in accordance with the DPMC rules at N.J.A.C. 17:19.

“DPMC Classification” means the process and product of assigning specific construction categories or trades and the maximum Aggregate Rating which define the eligibility of firms to engage in public work as determined by the DPMC in accordance with the DPMC rules at N.J.A.C. 17:19-1.

“EFCFA” means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72.

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

“Grant funded district” means a district which receives funding for a school facilities project from the Corporation pursuant to section 15 of EFCFA, N.J.S.A. 18A:7G-15.

“Instructions to Bidders” means that portion of the bid and contract documents setting forth the requirements and procedures for bidding on a Corporation project.

“Irregular bid” means a Project Rating Proposal or a Price Proposal that does not conform to the bid and contract documents for the schools facilities package.

“Notice of DPMC Classification” means the document(s) from the DPMC notifying the Firm of the specific construction categories or trades and of the maximum Aggregate Rating for which the firm may perform work, in accordance with the DPMC rules at N.J.A.C. 17:19.

“Notice of Prequalification” means the letter from the Corporation issuing the firm its prequalification.

“Prequalification” means the process and product of being approved by the Corporation to perform work in a given trade and within a given aggregate limit on school facilities packages and grant funded projects.

“Price Proposal” means that part of the bid to be submitted by the firm setting forth the firm’s bid price, including any

and all information and documents required by the Instructions to Bidders, the bid advertisement or addenda.

“Project management firm” or “PMF” means the firm engaged by the Corporation to provide overall construction management services, oversight, direction, coordination, and reporting in connection with school facilities projects.

“Project Rating” means the maximum amount a firm may bid on any school facilities package based upon the information contained in a firm’s Project Rating Proposal.

“Project Rating Proposal” means that part of the bid to be submitted by the firm for issuance by the Corporation of the Project Rating.

“Schools Construction Program” or “School Program” means the over-all program mandated by the EFCFA for the design, renovation, repair and new construction of primary and secondary public schools throughout the State, through the implementation of school facilities projects.

“School facilities package” or “package” means any and all of the school facilities projects that are identified in the Bid Documents.

“School facilities project” or “project” means the demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or capital maintenance, in accordance with the Department of Education’s rules at N.J.A.C. 6A:26, of all or any part of a school facility or of any personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment. Each school facilities project that is part of the firm’s work is identified in the contract documents.

“School facility” means and includes any structure, building or facility used wholly or in part by a school district for academic purposes.

“State” means the State of New Jersey, or any of the departments or agencies in the Executive Branch of government.

“Work” means the furnishing of all labor, services, materials, equipment, tools, transportation, supplies and other incidentals to be furnished, provided or performed by the firm, as required by the contract documents, including all efforts necessary or appropriate to achieve final acceptance and completion.

SUBCHAPTER 2. NECESSITY FOR PREQUALIFICATION

19:38-2.1 Necessity for Prequalification

(a) Only those firms holding a valid Notice of Prequalification issued by the Corporation in accordance with the procedures in N.J.A.C. 19:38A shall be eligible to bid for