

**CHAPTER 72**

**NEW JERSEY TRANSIT PROCUREMENT POLICIES AND PROCEDURES**

**Authority**

N.J.S.A. 2A:44-143, 27:25-5(e) and 27:25-11; 49 U.S.C. §§5301 et seq.; and 49 CFR Part 18.

**Source and Effective Date**

R.2006 d.208, effective May 10, 2006. See: 37 N.J.R. 4902(a), 38 N.J.R. 2511(a).

**Chapter Expiration Date**

Chapter 72, New Jersey Transit Procurement Policies and Procedures, expires on May 10, 2011.

**Chapter Historical Note**

Chapter 72, New Jersey Transit Procurement Policies and Procedures, was adopted as R.1981 d.176, effective June 4, 1981. See: 13 N.J.R. 158(a), 13 N.J.R. 374(d).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted as R.1986 d.134, effective March 31, 1986. See: 18 N.J.R. 404(a), 18 N.J.R. 847(c).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted as R.1991 d.206, effective March 20, 1991. See: 23 N.J.R. 290(a), 23 N.J.R. 1148(b).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, expired on March 20, 1996.

Chapter 72, New Jersey Transit Procurement Policies and Procedures, was adopted as new rules by R.1996 d.239, effective May 20, 1996. See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

Pursuant to Executive Order No. 66(1978), Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted as R.2001 d.191, effective May 14, 2001. See: 33 N.J.R. 987(a), 33 N.J.R. 1924(b).

Chapter 72, New Jersey Transit Procurement Policies and Procedures, was readopted by R.2006 d.208, effective May 10, 2006. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**16:72-1.1 Source for public information**

The public may receive information concerning NJ TRANSIT's procurement program by contacting the Procurement Department, NJ TRANSIT, One Penn Plaza East, Newark, New Jersey 07105-2246 or [www.njtransit.com/db\\_pr.shtml](http://www.njtransit.com/db_pr.shtml).

Amended by R.1990 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on description of organization deleted; text on source for public information recodified from section 1.2.

Amended by R.1994 d.211, effective May 2, 1994.

See: 26 N.J.R. 908(b), 26 N.J.R. 1842(a).

Amended by R.2006 d.208, effective June 5, 2006.

See: 37 N.J.R. 4902(a), 38 N.J.R. 2511(a).

Inserted "or [www.njtransit.com/db\\_pr.shtml](http://www.njtransit.com/db_pr.shtml)".

### 16:72-1.2 Definitions

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

"Affiliates" means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

"Bid security" means a guarantee, in the form of a bond or deposit consisting of a cashier's check, certified check or irrevocable letter of credit that the bidder, if selected, will accept the contract as bid; otherwise, the bidder or its guarantor will be liable for the amount of the loss suffered by NJ TRANSIT, which loss may be partially or completely recovered by NJ TRANSIT in exercising its rights against the bond or deposit.

"Contracting" means any arrangement giving rise to an obligation to supply anything or perform any service for NJ TRANSIT, other than by virtue of employment, or to supply anything to or perform any service for a private or public person where NJ TRANSIT provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or services or the persons who may supply or perform the same.

"Days" means calendar days unless otherwise specified.

"Debarment" means an exclusion from NJ TRANSIT contracting, on the basis of a lack of responsibility evidenced by an offense, failure or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure or inadequacy of performance.

"Disqualification" means a debarment or suspension which denies or revokes a qualification to bid or otherwise engage in NJ TRANSIT contracting which has been granted or applied for pursuant to statute, or rules and regulations.

"Line item" means a procurement item specified in the Invitation for Bids for which the bidder is asked to give individual pricing information.

"NJ TRANSIT means the New Jersey Transit Corporation which was established by N.J.S.A. 27:25-1 et seq. and its subsidiaries.

"Payment bond" means a guarantee in the form of a bond that the vendor will pay all of its obligations to its subcontractors and suppliers and that NJ TRANSIT subcontractors and suppliers will be protected from loss in the event that the vendor fails to make payment as agreed.

"Performance bond" means a guarantee, provided prior to execution of a contract, in the form of a bond that the successful bidder will complete the contract as agreed and that NJ TRANSIT will be protected from loss in the event the vendor fails to complete the contract as agreed.

"Person" means any natural person, company, firm, association, corporation, or other entity.

"Procurement" means the awarding of contracts for construction, alterations, supplies, equipment, repairs or maintenance, or for rendering any services to NJ TRANSIT.

"Suspension" means an exclusion from NJ TRANSIT contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

"Term contract" means a contract in which a source or sources of supply are established for a specified period of time, usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

"Vendor" means any person, firm, corporation, or other entity which provides or offers or proposes to provide goods or services to or perform any contract for NJ TRANSIT.

Amended by R.1990 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Text on source for public information recodified to section 1.1; definitions recodified from section 1.3, with "Director" and "Division" deleted and "Payment bond" and "Vendor" added.

Amended by R.1994 d.211, effective May 2, 1994.

See: 26 N.J.R. 908(b), 26 N.J.R. 1842(a).

Amended by R.1996 d.239, effective May 20, 1996.

See: 28 N.J.R. 1358(b), 28 N.J.R. 2566(b).

Amended by R.2006 d.208, effective June 5, 2006.

See: 37 N.J.R. 4902(a), 38 N.J.R. 2511(a).

In the definition of "Debarment" deleted the commas following both occurrences of "failure".

### 16:72-1.3 Competition

All purchases, whether by formal advertising or otherwise, shall be made on a competitive basis to the maximum practicable extent.

Amended by R.1990 d.539, effective January 7, 1991.

See: 22 N.J.R. 2460(a), 23 N.J.R. 119(b).

Definitions recodified to section 1.2; text on competition recodified from section 1.4.

### 16:72-1.4 Responsible contractors

(a) Procurements shall be made from, and contracts shall be awarded to, responsible contractors only. A responsible contractor is one who meets the following standards:

1. Has adequate financial resources, or the presently certifiable ability to obtain such resources, as required during the performance of the contract, if adequate security is not otherwise furnished;
2. Is able to comply with the required or proposed delivery or performance schedule;