

CHAPTER 38D
PROCUREMENT OF GOODS AND SERVICES

Authority

N.J.S.A 18A:7G-1 through 13 and 26(b).

Source and Effective Date

R.2005 d.61, effective February 7, 2005.
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Chapter Expiration Date

Pursuant to Executive Order No. 1(2010), the chapter expiration date is extended from February 7, 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. See: 43 N.J.R. 3168(a).

Chapter Historical Note

Chapter 38D, Procurement of Goods and Services, was adopted by R.2005 d.61, effective February 7, 2005. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

19:38D-1.1 Purpose and scope of rules

This chapter is designed to establish the procedures applicable to the award of contracts by the Corporation for goods and services, excluding services subject to P.L. 1997, c.399, and N.J.A.C. 19:38C, required for implementation of the school construction program.

19:38D-1.2 Definitions

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

“Allowance” means a fee allowance established by the Corporation to address a specific good or service when the exact cost of any such service cannot be known by the Corporation at the time of a request for proposals or by the provider of the good or service at the time of submission of proposals. The exact cost or fee will be determined during administration of the contract, and will draw upon the allowance previously established by the Corporation. The amount of allowances may be excluded from the total amount of compensation, in accordance with provisions of this chapter.

“Appraiser” means a firm that provides an unbiased analysis, opinion or conclusions on the value of real property.

“Authority” means the New Jersey Economic Development Authority, established pursuant to the New Jersey Economic Development Authority Act, P.L. 1974, c.80, as amended. The Corporation is a subsidiary of the Authority.

“Board” means the members of the Board of Directors of the Corporation.

“Category one selection procedures” means the procedures applicable to procurement of a contract for goods or services where compensation, exclusive of allowances, does not exceed \$25,000, set forth at N.J.A.C 19:38D-3.

“Category two selection procedures” means the procedures applicable to procurement of a contract for goods or services where compensation, exclusive of allowances, exceeds \$25,000, but is less than \$500,000, set forth at N.J.A.C. 19:38D-4.

“Category three selection procedures” means the procedures applicable to procurement of a contract for goods or services where the compensation, exclusive of allowances, equals or exceeds \$500,000, set forth at N.J.A.C. 19:38D-5.

“Category four selection procedures” means the procedures applicable to procurement of a contract for goods or services where the requirements of one of the exemptions set forth in N.J.A.C. 19:38D-6 have been met, regardless of the amount of compensation.

“Category five selection procedures” means the procedures applicable to procurement of a contract for title insurance, set forth at N.J.A.C. 19:38D-7.

“Category six selection procedures” means the procedures applicable to procurement of a contract for appraiser services, set forth at N.J.A.C 19:38D-8.

“Category seven selection procedures” means the procedures applicable to procurement of a contract for expert services, set forth at N.J.A.C. 19:38D-9.

“Client school district” means the school district in which services are provided.

“Compensation” means the estimated amount of fees, but may exclude allowances where so provided by this chapter.

“Corporation” means the New Jersey Schools Construction Corporation, which is the entity formed pursuant to N.J.S.A. 34:1B-159 as a subsidiary of the Authority for the purpose of implementing provisions of the Act. The Corporation is authorized to exercise all powers granted to the Authority under the Act, except the power to incur indebtedness.

“Department” means the New Jersey Department of Education.

“Educational Facilities Construction and Financing Act” or the “Act” means P.L. 2000, c.72, which mandates the school construction program.

“Expert” means an individual or firm with a high degree of skill or knowledge in a specific subject engaged or to be engaged by the Corporation for purposes of litigation support, including, but not limited to, testimony as an expert witness.

“Goods” means fixtures, furnishings, equipment, and any other tangible items the procurement of which the Corporation deems necessary for pre-development activities, a school facilities project, or for purposes of any school program procurement. For purposes of this chapter, “goods” shall not include materials to be provided in connection with the provision of services pursuant to a contract entered into by the Corporation pursuant to N.J.A.C. 19:38C or N.J.S.A. 34:1B-5.7.

“Pre-development activities” means activities undertaken by the Corporation in connection with the development of a school facilities project and includes, but is not limited to, such activities as:

1. Site acquisition and development;
2. Preliminary design work;
3. Acquisition and installation of temporary facilities;
4. Undertaking feasibility studies to determine the viability of new construction versus rehabilitation;
5. Environmental analysis;
6. Appraisal and title work; and
7. Other activities required for the development of a school facilities project.

“Pre-qualified” means pre-qualified by the Corporation in accordance with provisions set forth in rules adopted by the Corporation.

“Proposal” means the proposal submitted by a firm in response to a request for proposals.

“Request for proposals” means the solicitation issued by the Corporation in connection with the selection of a provider of goods or services.

“Request for qualifications” means the request for statements of qualifications (preceding the Corporation’s issuance of a request for proposals) issued by the Corporation in connection with the selection of a provider of goods or services.

“Schedule of goods” or “school program” means the goods required to be provided by a provider of goods for a particular school program procurement.

“School construction program” means the over-all program mandated by the act 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 project” means the acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project.

“School facility” means and includes any structure, building or facility used wholly or in part for academic purposes by a client school district, but shall exclude athletic stadiums, grandstands, and any structure, building or facility used solely for school administration.

“School program procurement” means the procurement of goods or services pursuant to the policies and procedures established in this chapter in connection with the school construction program. A school program procurement may relate to one or more school facilities projects or pre-development activities, or to the school construction program.

“Scope of services” means the scope of services contractually required from a provider of goods or services for a particular school program procurement.

“Selection committee” means the body established by the Corporation to review, evaluate and recommend proposals of providers of goods or services for specific school program procurements when compensation, exclusive of allowances, exceeds \$25,000.

“Services” means such professional, technical, or other types of services as the Corporation may deem necessary for pre-development activities, a school facilities project, or for purposes of any school program procurement, except that, for purposes of these policies and procedures, “services” shall not include:

1. Any “architectural, engineering or land surveying services” within the meaning of N.J.S.A. 52:34-9.2;
2. Other services subject to the procurement procedures established at N.J.A.C. 19:38C; and
3. Services subject to the procurement requirements established at N.J.S.A. 34:1B-5.7.

“Services” shall include all labor, materials, and equipment provided or to be provided in order to fulfill the services obligations of the provider of such services.

“Small business enterprise” or “SBE” means a firm that is registered as such with the New Jersey Commerce and Economic Growth Commission.

“Term contract” means a contract whereby the Corporation may engage a provider of goods or services for a defined period of time, as provided in this chapter.

“Title insurance” means a policy issued by a title insurance company insuring, guaranteeing or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in or the unmarketability of the title of the subject property and includes searches relating to the title of the subject property.

“Title insurance company” means a title insurance company duly authorized to transact the business of title insurance in the State of New Jersey.

SUBCHAPTER 2. GENERAL REQUIREMENTS

19:38D-2.1 Scope

This subchapter sets forth requirements applicable to all procurements of consultants providing goods and services to the Corporation.

19:38D-2.2 Seven categories of procurement procedures

(a) The procurement of goods and services shall be given to seven categories of selection procedures as follows:

1. Category one selection procedures;
2. Category two selection procedures;
3. Category three selection procedures;
4. Category four selection procedures;
5. Category five selection procedures;
6. Category six selection procedures; and
7. Category seven selection procedures.

19:38D-2.3 Contract term; term contracts

The Corporation may enter into an engagement with a provider of goods and/or services for a term that may extend for such time as may be required for complete performance under the pertinent scope of services. In the alternative, where appropriate, the Corporation may enter into a term contract with any such provider engaged pursuant to the provisions of this chapter for a contract term not to exceed three years, and for a contract value that shall not exceed a ceiling stated in the advertisement and request for proposals. At the end of any three-year term contract period, if the need for the pertinent services remains and the Corporation

determines to procure them, the Corporation shall reinstitute the selection process applicable under this chapter.

19:38D-2.4 General evaluation criteria for categories two, three and four

(a) Proposals shall be ranked pursuant to evaluation criteria developed by the Corporation for each particular procurement or engagement, and by the weights established for such criteria. In general, the Corporation shall consider price and other factors. More specifically, the evaluation criteria may include:

1. The experience of the provider of the goods or services, and of its key personnel, on projects similar in scope, size, complexity;
2. The ability of the provider of the goods or services, and of its key personnel, to provide the required goods or services;
3. The approach set forth by the provider of the goods or services in its proposal;
4. The proposed staffing, including, but not limited to, the extent to which any staff proposed is already committed to provide services under any other contract with the Corporation, or with any other public or private entity may compromise the provider of goods or services capacity to provide the services addressed in the technical proposal;
5. Performance by the provider of the goods or services on other work undertaken or funded by the Corporation;
6. The proximity the provider of the goods or services may have to the site of the school program procurement;
7. In the case of goods, durability, construction, and related warranty provisions; and/or
8. Such other criteria as the Corporation may determine to be appropriate to a specific procurement and which shall be set forth in the pertinent advertisement and request for proposals.

(b) To the extent required by law or by order of a court of competent jurisdiction, the Corporation shall abide by the provisions of N.J.S.A. 52:32-17 et seq., N.J.A.C. 12:10A, and all other applicable regulations, with respect to SBEs. Nothing in this chapter shall be construed to limit the Corporation's ability to obtain goods or services pursuant to a SBE set-aside procurement under N.J.A.C. 19:32.

19:38D-2.5 Rejection of proposals

(a) Proposals received after the submission date and time prescribed in the advertisement and request for proposals shall be rejected, except where the Corporation, in its sole discretion, finds good cause.

(b) The Corporation may reject any proposal for lack of responsiveness or responsibility or when it is otherwise deemed to be in the public interest to do so. The Corporation may reject all proposals for excessive cost, insufficient competition, or any other reason that it deems to be in the public interest. The Corporation may cancel an award at any time before the execution of an agreement by all parties.

19:38D-2.6 Contract approval and execution

Except as may otherwise be specifically provided in the chapter, engagement shall be subject to approval by Corporation staff or the Board and executed by Corporation staff in accordance with the levels of internal operating authority established by the Board, which may be consulted at the Corporation website located at: www.njscc.com.

19:38D-2.7 Termination

All contracts executed pursuant to this chapter shall provide for, among other things, termination for the convenience of the Corporation and for cause.

19:38D-2.8 Records access and retention

(a) All applications and submissions received by the Corporation pursuant to this chapter shall constitute government records within the meaning of N.J.S.A. 47:1A-1 et seq., except as otherwise provided by N.J.A.C. 19:30-1.5.

(b) The Corporation and, pursuant to the express terms of any contract, any provider of goods and services, shall make any documents or records in any form, including electronic, relating to a school program procurement that is subject to this chapter available for inspection and copying at any time by the Office of Government Integrity, Unit of Fiscal Integrity created pursuant to N.J.S.A. 18A:7G-43.

(c) The Corporation and any provider of goods or services subject to this chapter shall retain all records relating to goods or services provided under contract with the Corporation for a period of 10 years following expiration or termination of the contract, provided that if any litigation, claim or audit relating to the school program procurement and the provision of such services is commenced prior to contract expiration or termination, such records shall be retained until all litigation, claims, or audit findings, and related appeals, if any, have been resolved with finality.

19:38D-2.9 Appeals

(a) Appeals arising from decisions of the Corporation may be requested in writing, and an opportunity given for any informal hearing on the papers, in person or via telephone with Corporation staff. Such written request for an informal hearing must be made within 10 days of the receipt of the Corporation's decision.

(b) Every determination by the Corporation of a dispute or controversy arising under this chapter shall be embodied in a written decision, which shall constitute final agency action by the Corporation.

SUBCHAPTER 3. CATEGORY ONE SELECTION PROCEDURES

19:38D-3.1 Scope

This subchapter establishes category one selection procedures for the procurement of contracts for goods or services.

19:38D-3.2 Solicitation

The Corporation shall not be required to advertise a category one procurement. Wherever practicable, a competitive selection process shall be used.

19:38D-3.3 Evaluation

Proposals shall be evaluated based on price and evaluation criteria appropriate for the particular school program procurement. The Corporation may request clarifying technical and/or organizational information from any entity submitting a proposal prior to finalizing the evaluation.

19:38D-3.4 Selection

The Corporation shall select the proposal that is in the best interest of the Corporation and the school construction program, based on price and the evaluation criteria established for the selection.

SUBCHAPTER 4. CATEGORY TWO SELECTION PROCEDURES

19:38D-4.1 Scope

This subchapter establishes category two selection procedures for the procurement of contracts for goods or services.

19:38D-4.2 Initiation

Upon the determination of the need for specific goods or services, Corporation staff shall create the selection committee for the purpose of selecting a provider of the goods or services; developing the schedule governing selection; and identifying whether the provider must be pre-qualified. Corporation staff may decide to use a one-step process for soliciting proposals, a two-step process as set forth in this subchapter, or a random selection process, based upon a determination as to which process will be in the best interests of the particular school program procurement.

19:38D-4.3 Two-step process; request for qualifications

(a) When Corporation staff elect to use a two-step process, the Corporation shall advertise a request for qualifications soliciting statements of qualifications, in accordance with N.J.A.C. 19:38D-4.4. When applicable, a provider of goods or services must be appropriately pre-qualified at the time of submission of a statement of qualifications.

(b) Each member shall evaluate the statements of qualifications and assign a score based upon the evaluation criteria set forth below, or such other criteria as may be stated in the advertisement for the request for qualifications:

1. The firm's experience in providing goods or services similar in volume, size, scope and complexity to the school program procurement;
2. The qualifications of the firm's key technical persons;
3. The experience of subconsultants (or in-house personnel, if applicable) in providing goods or services similar in volume, size, scope and complexity to the school program procurement;
4. The qualifications of the key technical persons of subconsultants (or in-house personnel, if applicable); and
5. Such other qualifications or criteria as the Corporation may determine to be appropriate to a specific school program procurement and which shall be set forth in the advertisement and request for qualifications.

(c) The selection coordinator shall compile and tabulate all scores and prepare a consolidated ranking of all proposals. Corporation staff shall review the consolidated ranking and shall select a short list consisting of a minimum of three providers of goods or services considered most highly qualified to receive a request for technical proposals. In the event that fewer than three such providers submit a statement of qualifications, the Corporation may, at its option, either include all such providers within the short list and proceed with the process, or reject all responses and advertise a second time.

19:38D-4.4 Advertising

(a) The Corporation shall solicit statements of qualifications by advertising as follows:

1. Advertising shall be done by Statewide advertising in newspapers and/or by electronic means. In addition, such advertising may also be placed:
 - i. In pertinent trade publications with distribution in New Jersey;
 - ii. By written notice to pertinent New Jersey professional societies or trade organizations; and/or
 - iii. By use of direct mailings to appropriately selected firms.

2. Any such advertisement shall be made in the form and in the time required to promote competitive bidding and shall include any specific information that a provider of goods or services must submit by the date and time specified in the advertisement. The advertisement shall also specify the evaluation criteria that will apply to statements of qualifications.

19:38D-4.5 Random selection process

From any group of providers of goods or services appropriately pre-qualified, Corporation staff may perform a random selection of at least three firms from which to issue a request for proposals.

19:38D-4.6 Request for proposals

(a) Where the Corporation chooses the one-step process for obtaining proposals, it shall issue a request for proposals for the goods or services required, which is based on the scope of services or schedule of goods, to at least three separate entities. The request for proposals shall be accompanied by a scope of services or schedule of goods, the form of contract, and other related documents, and shall, in addition to other things, set forth the date, time and place for submission of proposals. The request for proposals may be submitted to fewer than three entities upon a finding by Corporation staff that fewer than three entities are qualified. The proposals shall be solicited from entities selected by Corporation staff. Corporation staff shall prepare a memorandum indicating the number of entities contacted, the method used in choosing the firms contacted (which shall bear a reasonable relationship to the evaluation criteria set forth in N.J.A.C. 19:38D-2.4), and the number of proposals received, including prices.

(b) Where the Corporation chooses the two-step process for obtaining proposals or the random selection process, it shall issue a request for proposals in the form set forth in (a) above, to the firms short listed in accordance with N.J.A.C. 19:38D-4.3, or randomly selected pursuant to N.J.A.C. 19:38D-4.5.

19:38D-4.7 Evaluation

Proposals shall be evaluated based upon price and the evaluation criteria established for the particular school program procurement. Clarifying technical and/or organizational information may be requested from those entities submitting proposals and, at the sole discretion of the Corporation, interviews may be held, prior to determining final rankings. Each member of the Selection Committee shall evaluate proposals and interviews, if any, and assign a score. The selection coordinator shall compile and tabulate all individual scores and prepare a consolidated ranking of all proposals. Corporation staff shall make a recommendation as to the proposal that is in the best interest of the Corporation and the school construction program, based on price and other factors.

SUBCHAPTER 5. CATEGORY THREE SELECTION PROCEDURES

19:38D-5.1 Scope

This subchapter may apply, at the option of the Corporation, to any school program procurement regardless of the amount of compensation, but shall apply to all school program procurements where compensation, exclusive of allowances, equals or exceeds \$500,000.

19:38D-5.2 Initiation

Upon the determination of the need for specific goods or services, Corporation staff shall create the selection committee for the purpose of selecting a provider of the goods or services; developing the schedule governing selection; and identifying whether the provider must be pre-qualified. Corporation staff may decide to use a one-step process for soliciting proposals, or the two-step process as set forth in this subchapter, based upon a determination as to which process will be in the best interests of the particular school program procurement.

19:38D-5.3 Two-step process; request for qualifications

(a) When Corporation staff elect to use a two-step process, the Corporation shall advertise a request for qualifications soliciting statements of qualifications, in accordance with N.J.A.C. 19:38D-5.4 below. When applicable, a provider of goods or services must be appropriately pre-qualified at the time of submission of a statement of qualifications.

(b) Each member shall evaluate the statements of qualifications and assign a score based upon the evaluation criteria set forth below, or such other criteria as may be stated in the advertisement for the request for qualifications:

1. The firms experience in providing goods or services similar in volume, size, scope and complexity to the school program procurement;
2. The qualifications of the firm's key technical persons;
3. The experience of subconsultants (or in-house personnel, if applicable) in providing goods or services similar in volume, size, scope and complexity to the school program procurement;
4. The qualifications of the key technical persons of subconsultants (or in-house personnel, if applicable); and
5. Such other qualifications or criteria as the Corporation may determine to be appropriate to a specific school program procurement and which shall be set forth in the advertisement and request for qualifications.

(c) The selection coordinator shall compile and tabulate all scores and prepare a consolidated ranking of all proposals. Corporation staff shall review the consolidated ranking and shall select a short list consisting of a minimum of three providers of goods or services considered most highly qualified to receive a request for technical proposals. In the event that fewer than three such providers submit a statement of qualifications, the Corporation may, at its option, either include all such providers within the short list and proceed with the process, or reject all responses and advertise a second time.

19:38D-5.4 Advertising

(a) The Corporation shall solicit statements of qualifications and proposals, as the case may be, by advertising as follows:

1. Advertising shall be done by Statewide advertising in newspapers and/or by electronic means. In addition, such advertising may also be placed:

- i. In pertinent trade publications with distribution in New Jersey;
- ii. By written notice to pertinent New Jersey professional societies or trade organizations; and/or
- iii. By use of direct mailings to appropriately selected firms.

2. Any such advertisement shall be made in the form and in the time required to promote competitive bidding and shall include any specific information that a provider of goods or services must submit by the date and time specified in the advertisement. The advertisement shall also specify the evaluation criteria that will apply to statements of qualifications or proposals, as the case may be.

19:38D-5.5 Request for proposals

(a) Where the Corporation chooses the one-step process for obtaining proposals, it shall issue a request for proposals for the goods or services required, which is based on the scope of services or schedule of goods, to all firms properly responding to the advertisement, and it may send such to other entities known by the Corporation to be providers of the subject goods or services. The request for proposals shall be accompanied by a scope of services or schedule of goods, the form of contract, and other related documents, and shall, in addition to other things, set forth the date, time and place for submission of proposals.

(b) Where the Corporation chooses the two-step process for obtaining proposals, it shall issue a request for proposals in the form set forth in (a) above, to the firms short listed in accordance with N.J.A.C. 19:38D-5.3.

19:38D-5.6 Evaluation

Proposals shall be evaluated based upon price and the evaluation criteria established for the particular school pro-

gram procurement. Clarifying technical and/or organizational information may be requested from those entities submitting proposals and, at the sole discretion of the Corporation, interviews may be held, prior to determining final rankings. Each member of the Selection Committee shall evaluate proposals and interviews, if any, and assign a score. The selection coordinator shall compile and tabulate all individual scores and prepare a consolidated ranking of all proposals. Corporation staff shall make a recommendation as to the proposal that is in the best interest of the Corporation and the school construction program, based on price and other factors.

SUBCHAPTER 6. CATEGORY FOUR SELECTION PROCEDURES

19:38D-6.1 Scope

This subchapter shall apply when the Corporation determines to procure goods or services by means of an exemption from advertising, having found that the requirements of one of the exemption types in N.J.A.C. 19:38D-6.2 have been satisfied, and when the Corporation has established that such exemption is in the best interest of the Corporation and the school construction program.

19:38D-6.2 Exemption types and requirements

(a) The circumstances providing a basis for an exemption are as follows:

1. Sole source: when the provider is the only available source of the goods or services, and is shown to be such despite the availability of seemingly comparable goods or services from another provider.

2. Continuity: when, as a result of the provider's previous satisfactory engagement by the Corporation, a significant need arises to maintain continuity through updated or additional goods or services from the same source.

3. Governmental agreement: when the goods or services required are available from the Federal or any State government or any agency or political subdivision thereof.

4. Public exigency: when public exigency requires the immediate delivery of the goods or services. Public exigency may be found if:

i. Competitive bidding is impractical or impossible;

ii. A health or safety hazard exists;

iii. A critical agency mandate, statutory or operational requirement can only be fulfilled by the sole source; or

iv. A health or safety emergency precludes the lead time required to develop a competitive scope of services.

5. Existing contract: when the goods or services required are available through participation in an existing contract between a vendor and any department, division, office, agency, bureau or section of the United States, or any authority or instrumentality created or chartered thereby and any department, division, office, agency, bureau or section of New Jersey or any state of the United States other than New Jersey, or any political subdivision thereof including, but not limited to, municipalities, or any other authority or instrumentality created or chartered thereby, provided that:

i. The existing contract was the result of a competitive selection process;

ii. The terms of the existing contract permit such Corporation participation;

iii. The Attorney General's office approves the terms applicable to the Corporation's participation in the existing contract;

iv. The price of the goods or services being procured is no greater than the price offered to the original governmental unit party to the existing contract;

v. The Corporation receives the benefit of any price reductions mandated by the original governmental unit party during the term of the existing contract and is protected from price increases during that time; and

vi. The price of goods or services being procured is no greater than the price of the same or equivalent goods or services under any existing New Jersey State contract.

SUBCHAPTER 7. CATEGORY FIVE SELECTION PROCEDURES

19:38D-7.1 Scope

This subchapter, exclusively, shall govern the engagement of title insurance companies.

19:38D-7.2 Master list

The Corporation shall establish and maintain a master list of title insurance companies, which are on the list of title insurance companies authorized to write title insurance policies in New Jersey compiled by the New Jersey Department of Banking and Insurance and rated "A" or higher by a major credit rating agency. The master list shall be updated by the Corporation on a quarterly basis.

19:38D-7.3 Competitive bidding

(a) When the Corporation deems it in the best interest of a school facilities project or the school construction program to make use of competitive bidding to procure title insurance, it shall solicit proposals for title insurance by means of a request for proposals presented to at least three separate title insurance companies randomly selected from the master list. Corporation staff shall prepare a memorandum indicating the number of entities contacted, and the number of proposals received, including prices.

(b) The proposals shall be evaluated by the Corporation based on price and the title insurance company's experience with the property or area subject to the school program procurement. The Corporation may request clarifying technical and/or organizational information from those entities submitting proposals prior to determining the final ranking.

19:38D-7.4 Term contracts

(a) In the event that the Corporation determines that it would be in the best interest of the school construction program to make use of a term contract approach to the procurement of title insurance, it may extend an offer to all title insurance companies on the master list to enter into a contract that may extend for a term not to exceed three years. The compensation paid under any such term contract shall be in accordance with a fixed schedule of rates and charges, and the contract value shall not exceed a stated ceiling during its term. The Corporation may extend such term contract offers at such frequency as it determines is in the best interest of the school construction program, provided that no title insurance company may be engaged under more than one such term contract at a time. All term contracts with title insurance companies shall provide for, among other things, termination for the convenience of the Corporation and termination for cause.

(b) During the term of such a contract, the Corporation may assign to a title insurance company specific properties or sites for which to provide title insurance for purposes of one or more school facilities projects based upon the following criteria:

1. The title insurance company's experience with the property or area subject to the school program procurement;
2. Present capacity of the firm to provide the required services; and
3. Equitable allocation of assignments among all title insurance companies engaged by the Corporation under a term contract.

SUBCHAPTER 8. CATEGORY SIX SELECTION PROCEDURES

19:38D-8.1 Scope

This subchapter, exclusively, shall govern the engagement of appraisers.

19:38D-8.2 Master list

(a) The Corporation shall establish and maintain and update on a quarterly basis, a master list of appraisers. The master list shall be created based upon the list of appraisers maintained by the New Jersey Department of Transportation and the list of appraisers previously engaged by the Authority. Firms may apply for inclusion on the master list by submitting to the Corporation a statement of qualifications which shall include, but not limited to, the following:

1. A resume;
2. Experience with condemnation projects carried out by governmental entities and a full description of same; and
3. References from other governmental entities.

(b) Corporation staff shall evaluate the statement of qualifications submitted by a firm seeking inclusion in the master list based on the following criteria:

1. The firm's experience with condemnation projects carried out by governmental entities; and
2. The firm's compliance with the Uniform Standards of Professional Appraisal Practice, as published annually by the Appraisal Standards Board of the Appraisal Standards Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, DC 20005.

19:38D-8.3 Competitive bidding

(a) When the Corporation deems it is in the best interest of a school facilities project or the school construction program to make use of competitive bidding to procure an appraiser, it shall solicit proposals for an appraiser by means of a request for proposals presented to at least three separate appraisers chosen from the master list based upon the following:

1. Geographic proximity to the school facilities project; and
2. If applicable, the need for a particular specialty.

(b) Corporation staff shall prepare a memorandum indicating the number of entities contacted and of proposals received, including prices.

(c) The proposals will be evaluated by the Corporation staff based on price and the following evaluative criteria:

1. Licensing status;
2. Professional designations;

3. The recommendation or advice of the Corporation's condemnation counsel;

4. Previous experience on similar projects;

5. Geographic proximity to the school facilities project; and

6. Present capacity of a firm to complete solicited services.

(d) The Corporation may request clarifying technical and/or organizational information from those entities submitting proposals prior to determining the final ranking.

19:38D-8.4 Term contracts

(a) In the event that the Corporation determines that it would be in the best interest of the school construction program to make use of a term contract approach to the procurement of appraiser services, it may extend an offer to all firms on the master list to enter into a contract that may extend for a term not to exceed three years. The compensation paid under any such term contract shall be in accordance with a fixed schedule of rates and charges, and the contract value shall not exceed a stated ceiling during its term. The Corporation may extend such term contract offers at such frequency as it determines is in the best interest of the school construction program, provided that no appraiser may be engaged under more than one such term contract at a time. All term contracts with appraisers shall provide for, among other things, termination for the convenience of the Corporation and termination for cause.

(b) During the term of such a contract, the Corporation may assign to an appraiser specific sites to appraise for purposes of one or more school facilities projects based upon the following criteria:

1. Licensing status;
2. Professional designations;
3. The recommendation or advice of the Corporation's condemnation counsel;
4. Previous experience on similar projects;
5. Geographic proximity to the school facilities project or projects;
6. Present capacity of the firm to complete the required services; and
7. Equitable allocation of assignments among all appraisers engaged by the Corporation under a term contract.

SUBCHAPTER 9. CATEGORY SEVEN SELECTION PROCEDURES

19:38D-9.1 Scope

This subchapter, exclusively, shall govern the engagement of experts.

19:38D-9.2 General requirements

The Corporation shall consult with special counsel engaged to handle the relevant real estate transactions, if any, and with the Attorney General's Office prior to initiating the procurement of an expert, and shall coordinate such procurement with such special counsel and the Attorney General's Office accordingly.