

## CHAPTER 3 CONTRACT ADMINISTRATION

### Authority

N.J.S.A. 30:1-12 et seq.

### Source and Effective Date

R.2003 d.480, effective November 14, 2003.  
See: 35 N.J.R. 3516(a), 35 N.J.R. 5553(a).

### Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 3, Contract Administration, expires on May 13, 2009. See: 41 N.J.R. 66(a).

### Chapter Historical Note

Chapter 3, Contract Administration, was adopted as R.1978 d.83, effective March 7, 1978. See: 9 N.J.R. 469(b), 10 N.J.R. 154(a).

Subchapter 2, Capital Funding Program and Funding Agreement, was adopted as R.1983 d.392, effective September 19, 1983. See: 15 N.J.R. 1072(a), 15 N.J.R. 1580(a).

Pursuant to Executive Order 66(1978), Chapter 3, Contract Administration, expired on September 19, 1988.

Chapter 3, Contract Administration, was adopted as new rules by R.1988 d.513, effective November 21, 1988. See: 20 N.J.R. 1771(a), 20 N.J.R. 2898(a).

Subchapter 4, Cognizant Division Contracting, was adopted as R.1991 d.442, effective August 19, 1991. See: 23 N.J.R. 1647(a), 23 N.J.R. 2534(a).

Subchapter 3, Request for Proposal, was adopted as R.1991 d.554, effective November 4, 1991. See: 23 N.J.R. 957(a), 23 N.J.R. 3356(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Contract Administration, was readopted as R.1993 d.597, effective October 22, 1993. See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Debarment, Suspension and Disqualification of Person(s), Subchapter 2, Capital Funding Program and Funding Agreement, and Subchapter 3, Request for Proposal, were readopted as R.1998 d.551, effective October 22, 1998, and Subchapter 4, Cognizant Division Contracting, was repealed by R.1998 d.551, effective November 16, 1998. See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Chapter 3, Contract Administration, was readopted as R.2003 d.480, effective November 14, 2003. See: Source and Effective Date.

### CHAPTER TABLE OF CONTENTS

#### SUBCHAPTER 1. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF PERSON(S)

- 10:3-1.1 Definitions
- 10:3-1.2 Causes for debarment of a person
- 10:3-1.3 Conditions affecting debarment of a person(s)
- 10:3-1.4 Procedures, period of debarment and scope of debarment
- 10:3-1.5 Causes for suspension of a person(s)
- 10:3-1.6 Conditions for suspension of a person(s)
- 10:3-1.7 Procedures, period of suspension and scope of suspension
- 10:3-1.8 Extent of debarment, suspension or disqualification
- 10:3-1.9 Prior notice
- 10:3-1.10 List of debarred, suspended or disqualified person(s)
- 10:3-1.11 Authority to contract

- 10:3-1.12 Impact upon existing regulations
- 10:3-1.13 Appeals
- 10:3-1.14 Conflict of interest

#### SUBCHAPTER 2. CAPITAL FUNDING PROGRAM AND FUNDING AGREEMENT

- 10:3-2.1 Capital funding program
- 10:3-2.2 Capital Funding Agreement for Construction, Purchase, or Purchase and Renovation of Community-Based Facilities
- 10:3-2.3 Capital Funding Agreement for Renovation, Remodeling, Extension or Other Improvements to Agency-Owned or Leased Community Facilities
- 10:3-2.4 Capital Funding Agreement for Community-Based Facility Planning and Design Services

#### SUBCHAPTER 3. REQUEST FOR PROPOSAL

- 10:3-3.1 Purpose and scope
- 10:3-3.2 Definitions
- 10:3-3.3 Request for proposal
- 10:3-3.4 Sole source services
- 10:3-3.5 Internal controls for proposals
- 10:3-3.6 Funding proposal program summary and evaluation data; list of required information
- 10:3-3.7 Composition of review panel
- 10:3-3.8 Evaluation of the proposal
- 10:3-3.9 Evaluation of applicant
- 10:3-3.10 Notification of selection
- 10:3-3.11 Document retention
- 10:3-3.12 Contract negotiations
- 10:3-3.13 Exceptions to procedures

#### APPENDIX A. ADDENDUM TO REQUEST FOR PROPOSAL FOR SOCIAL SERVICE AND TRAINING CONTRACTS

#### APPENDIX B. STATEMENT OF ASSURANCES

#### APPENDIX C. PRIVATIZATION PARTICIPATION DOCUMENTATION FORM

#### APPENDIX D. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

#### APPENDIX E. (RESERVED)

#### APPENDIX F. (RESERVED)

#### SUBCHAPTER 4. (RESERVED)

#### SUBCHAPTER 1. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF PERSON(S)

##### 10:3-1.1 Definitions

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

“Affiliates” means persons having a relationship such that any one of them directly or indirectly controls or has the power to control another.

“Commissioner” means the Commissioner of the Department of Human Services or his designated representative.

“Debarment” means an exclusion from Department of Human Services (DHS) 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.

“DHS contracting” means any arrangement giving rise to an obligation to supply any thing to or perform any service for the DHS or divisions within the DHS other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the State provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service of the persons who may supply or perform the same.

“Disqualification” means a debarment or suspension which denies or revokes a qualification to bid or otherwise engage in DHS contracting which has been granted or applied for pursuant to statute or rules and regulations.

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

“Suspension” means an exclusion from DHS contracting for a temporary period of time pending the completion of an investigation or legal proceedings.

### 10:3-1.2 Causes for debarment of a person

(a) Subject to the conditions hereinafter described, the Commissioner may debar a person for any of the following causes.

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;

2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;

3. Violation of the Federal or State Antitrust Statutes, or of the Federal Anti-Kickback Act (18 U.S.C. 874, 40 U.S.C. 276b, c);

4. Violations of any of the laws governing the conduct of elections of the Federal government, State of New Jersey or of its political subdivisions;

5. Violation of the “Law Against Discrimination” (P.L. 1945, c.169, N.J.S.A. 10:5-1 et seq., as supplemented by P.L. 1975, c.127), or of the act banning discrimination in public works employment (N.J.S.A. 10:2-1 et seq.), or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein (P.L. 1942, c.114, N.J.S.A. 10:1-10 et seq.);

6. Violations of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages or child labor;

7. Violations of any laws governing the conduct of occupations or professions or regulated industries;

8. Willful failure to perform in accordance with contract specifications or within contractual time limits;

9. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

10. Violation of contractual or statutory provisions regulating contingent fees;

11. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by the DHS or the divisions within DHS to warrant debarment, including such conduct as may be prohibited by the laws or contracts enumerated in this paragraph even if such conduct has not been or may not be prosecuted as violations of such laws or contracts. Divisions within the DHS may promulgate rules and regulations specifically setting forth other causes of such serious and compelling nature as to warrant debarment;

12. Debarment by another department or agency in the executive branch.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

### 10:3-1.3 Conditions affecting debarment of a person(s)

(a) Debarment shall be made only upon approval of the Commissioner except as otherwise provided by law.

(b) The existence of any of the causes set forth in N.J.A.C. 10:3-1.2 shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Commissioner unless otherwise required by law, and shall be rendered in the best interests of the State.

(c) All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance and in deciding whether debarment is warranted.

(d) The rendering of a final judgment or conviction based upon any of the grounds set forth in N.J.A.C. 10:3-1.2(a)1 through 7, by either a court of competent jurisdiction or by an administrative agency empowered to render such judgment shall establish cause for debarment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

3. Asian-American, having origins in and of the original peoples of the Far East, Southeast Asia, Indian subcontinent, Hawaii, or the Pacific Islands; or

4. American Indian or Alaskan native (Native American), having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliations or community recognition.

"Minority agency" means a business or organization, profit or nonprofit, which is:

1. A sole proprietorship, partnership, or joint venture in which at least 51 percent of the ownership interest is held by minorities and the policy-making, management and daily business operation are controlled by one or more of the minorities who own it; or

2. A corporation or other business entity authorized under the laws of the United States whereby 51 percent of the stockholders, board of directors, ownership or management of daily business operations is controlled by one or more minorities.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Added "Minority" and "Minority agency".

### 10:3-3.3 Request for proposal

(a) The departmental component or CHSAC/designated entity shall issue a public announcement of the availability of funds for the purchase of services in accordance with N.J.S.A. 52:14-34.4, 34.5 and 34.6. The announcement shall be made in a manner to permit reasonable competition among eligible provider agencies. The departmental component shall publish the announcement in the New Jersey Register and publications directed toward minorities. In addition, the departmental component may choose to do one of the following as a second notification: mail the announcement to identified prospective provider agencies, including those that may provide similar, but not the specific service requested, minority organizations and culturally diverse and sensitive groups or advertise in newspapers of general circulation. Upon publication in the New Jersey Register, the Contract Policy and Management Unit will upload the notice of the RFP on the Department of Human Services Web Page at [www.state.nj.us/humanservices/DHSHome.html](http://www.state.nj.us/humanservices/DHSHome.html).

(b) The departmental components may choose to have bidders conferences. Technical information regarding the RFP may be disseminated at such a meeting.

(c) The CHSACs/designated entities, at minimum, shall use the standards set forth in this subchapter when they are delegated the responsibility to solicit proposals on behalf of the Department. The Department shall be a signatory to the contract in this instance. In all other instances, the

departmental component shall notify the CHSACs/ designated entity of the RFP, if appropriate.

(d) The proposal process shall be completed within 120 days of publication of the RFP notice in the New Jersey Register, inclusive of all informal review processes. See N.J.A.C. 10:3-3.13 for exceptions.

(e) Within three business days after a potential applicant has requested a proposal package, the departmental component or the CHSAC/designated entity shall forward a proposal package to, or the package may be picked up by, those prospective applicants responding to the public announcement. In addition, when the CHSAC/designated entity has been delegated the responsibility to solicit proposals on behalf of the Department, all appropriate Department procedures, as set forth in this subchapter, and county procedures, as appropriate, shall be followed. The proposal package shall contain, at a minimum, the following information and requirements:

1. The amount of funds available, the source of funds, the purpose, scope, and goals of the programs and services solicited, and any specific conditions, requirements, and/or constraints such as spending caps or match requirements;

2. A list of requirements which must be fulfilled for the proposal to be evaluated;

3. The type of provider agencies eligible to submit a proposal for consideration;

4. A request for a list of the board of directors and officers of the applicant agency;

5. The address to which the completed proposal must be sent, the submission deadline (time and date) after which no applications will be accepted, time frames for review of the proposal and awarding of contracts, and the target date for implementation;

6. The name and address of a contact person who can provide technical assistance;

7. Funding proposal evaluation criteria (see N.J.A.C. 10:3-3.8);

8. A disclaimer stating the following: "The Department reserves the right to reject any and all proposals when circumstances indicate that it is in its best interest to do so. The Department's best interest in this context, include, but are not limited to, loss of funding, inability of the applicant to provide adequate services, indication of misrepresentation of information and/or noncompliance with State and Federal laws and regulations, any existing Department contracts, and procedures set forth in this subchapter";

9. The following statements:

i. "It is anticipated that the resulting contract will contain approximately (insert amount) dollars in funding;"

ii. Needed for the privatization of State service and/or program only:

(1) "In accordance with guidelines established by the New Jersey Executive Commission on Ethical Standards, be advised that Department employees or former employees are eligible to submit proposals to this RFP."

(2) "These services were previously State operated. Therefore, if awarded this contract, your provider agency may be responsible to maintain, administer and dispose of public records previously maintained by the State of New Jersey as defined by N.J.S.A. 47:3-16 and must agree to do so under the terms of the contract."

10. The appropriate information, forms and a list of required supporting documents as set forth in N.J.A.C. 10:3-3.6;

11. A copy of Executive Order No. 189(1988), regarding conflict of interest (see Appendix A, incorporated herein by reference);

12. A list of depository libraries where the Contract Reimbursement Manual and Contract Policy and Information Manual may be reviewed prior to proposal;

13. The terms and conditions which must be met to comply with specific funding requirements and Departmental contracting rules;

14. The Statement of Assurances and the requirement that it shall be properly signed by the Chief Executive Officer or equivalent and returned with the application package. See Appendix B incorporated herein by reference; and

15. A statement explaining the departmental component's informal review process and that informal reviews by the departmental component must be completed within the time frame specified in the RFP or within 30 days after receipt of the CHSAC/designated entity recommendation, and that informal reviews by the CHSAC/designated entity must be completed within the 90-day process time period and prior to the recommendations being sent to the departmental component.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.  
See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Rewrote (a); in (c), inserted the second sentence; in (e), added two day requirement for mailing of proposal packages; rewrote (e)9; inserted (e)9i and (e)9ii; inserted (c)14 and recodified existing (c)14 as (e)15.

Amended by R.1998 d.551, effective November 16, 1998.  
See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

In (a), deleted "as defined in Section 10:3-3.2" at the end of the third sentence, and rewrote the fourth sentence as the fourth and fifth sentences; in (d), substituted "120 days of publication of the RFP notice in the New Jersey Register" for "105 days of publication" following "within"; and in (e), substituted a reference to three business days for a reference to two working days in the first sentence, rewrote 9i, substituted "Needed" for "In a RFP" at the beginning of 9ii, substituted "A copy" for "Notification" at the beginning of 11, and substituted a reference to informal reviews for a reference to reviews and substituted a reference to 30 days for a reference to 15 days in 15. Administrative change.  
See: 31 N.J.R. 872(c).

#### 10:3-3.4 Sole source services

Where there is none or only one response to the RFP, after specifications of the RFP have been cited and all criteria of this subchapter have been met, documentation of any and all efforts to obtain multiple responses shall be kept in the Department RFP file. Documentation shall also be retained of every contact made by the departmental component or CHSAC/designated entity to find a provider agency to fulfill the required services.

Amended by R.1993 d.597, effective November 15, 1993.  
See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

#### 10:3-3.5 Internal controls for proposals

(a) The departmental component or CHSAC/designated entity shall maintain all correspondence to and from the departmental component or CHSAC/designated entity, whichever is applicable, in a file retained in the individual program RFP records.

(b) The person who maintains the correspondence file shall be different from the staff personnel who are on the review panel and participating in the selection process.

(c) The log shall indicate, at minimum, the following information:

1. The name of the program;
2. The submission deadline date;
3. The date the completed proposal was received from the applicant;
4. The name of the Department or CHSAC/designated entity staff person receiving the proposal for review and selection;
5. The decision of the review panel in awarding the contract; and
6. The date the decision letter notifying the applicant of acceptance or rejection was sent.

(d) All proposal packages shall be sent to applicants via first class mail, hand delivered or picked up in person, as decided by the departmental component, to ensure timely receipt by the applicant.

(e) Proposal packages from applicants shall be date and time stamped upon receipt.

(f) All decision letters concerning acceptance and rejection shall have the same date and shall be mailed via first class mail on that day.

(g) When a CHSAC/designated entity is handling the RFP process, all documentation shall be forwarded to the departmental component responsible for signing the contract for final approval and retention.

(h) The departmental component shall communicate to the CHSAC/designated entity the outcome of any departmental component informal review on an CHSAC/designated entity RFP and forward a copy of the final award letter.

(i) When the RFP is for the privatization of DHS services/programs, the departmental component shall ensure that:

1. Department employees intending to bid on a privatization contract notify the New Jersey Executive Commission on Ethical Standards (Commission) in writing, with a copy to departmental component management, as soon as possible and before the application deadline;

2. The Division Director or other designated operations officer shall submit an affidavit to the Commission, stating that the named employee(s) had no substantial involvement in any of the following:

- i. The decision to privatize the service/program or the ongoing privatization process;
- ii. The preparation of the RFP; or
- iii. The evaluation of the bids;

3. The Privatization Participation Documentation Form, Appendix C incorporated herein by reference, is completed, thus identifying all persons involved with the privatization project and those eligible to respond to the RFP;

4. The departmental component shall maintain records identifying all individuals involved in the privatization process, including, but not limited to, the employee's letter to the Executive Commission on Ethical Standards, the affidavit, and a list of all persons working on the privatization project.

(j) A blind review may be employed when deemed necessary by the departmental component.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Added (i).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

In (a), substituted "maintain" for "record" following "shall", substituted a reference to files for a reference to logs, and substituted a reference to records for a reference to files; in (b), substituted "The person who maintains the correspondence file shall be" for "Correspondence shall be recorded in the log by a staff person" at the beginning; in (c), deleted former 3 and 4, and recodified former 5

through 8 as 3 through 6; in (d), substituted "picked up in person" for "faxed" following "delivered or"; in (i), added "When the RFP is" at the beginning; and added (j).

### 10:3-3.6 Funding proposal program summary and evaluation data; list of required information

(a) The funding proposal requirements shall apply to all proposals submitted to a departmental component or CHSAC/designated entity. Each proposal submitted to a departmental component or CHSAC/ designated entity shall contain the following:

1. The funding proposal cover sheet, which shall include at minimum:

- i. The incorporated name of the applicant;
- ii. The agency type (that is, profit, nonprofit, hospital-based, public);
- iii. The Federal ID;
- iv. The charities registration number, if applicable;
- v. The address;
- vi. The contact person, with the person's name, title, phone number, fax number and E-mail address, if applicable;
- vii. The total dollar amount requested;
- viii. The fiscal year end; and
- ix. An authorization signature of the chief executive officer of the entity submitting the proposal.

2. A brief statement of the applicant's mission and goals, including the applicant's history, purpose and objectives;

3. A need justification, being a description of the basis for concluding that each of the proposed services is needed in the community and the factors that make the applicant the most capable to provide the services, including the following:

- i. The nature of the problem;
- ii. Existing services;
- iii. Current statistics;

- iv. Current studies that have been conducted, either within the community or Statewide, which are relevant to the services being requested in the proposal;

- v. The applicant's capability to provide the same or similar services as those existing in the community and/or the applicant's capability to provide a new type of service not currently available in the community; and

- vi. The target population and characteristics.

4. The geographic area to be served;

5. Specific information regarding:

i. The service goals and objectives, including a description of what is to be gained by the clients or the provision of the services; and

ii. The manner in which the service outcome objectives will be measured;

6. If the client population to be served requires limited English speaking and/or bicultural services, a description of how access to the program, the program itself, outreach and referral are culturally relevant and linguistically appropriate for the population to be served, including the client and the client's family;

7. An indication of those services that will require a subcontract for provision of the services requested, including a list of the subcontracts by provider agency, if known;

8. A program approach based on the parameters set forth in the RFP, an overview of the total service package, including a description of how the services will be implemented and the time frames involved. The narrative shall address client population and geographic areas served, and for each component of the program package, the following information shall be provided as indicated:

i. A description of the service activities or methods that staff will employ to achieve the service objective;

ii. A description of how the agency will oversee the operation, the procedures utilized for monitoring the performance of the service activities, and how the agency will measure and evaluate the quality of service;

iii. As needed, a definition of each service component to be provided, including the purpose and goal of each;

iv. If applicable, an indication of the number, skills and qualifications of the staff that will perform the above service activities, as well as the use of any volunteers. A table of organization for administration and personnel position titles and job descriptions for each position;

v. If there are fees, a description of fees for service, sliding fee schedules and waivers of fees; and

vi. A description of client data to be recorded, the use of this data by the applicant, the means of maintaining confidentiality of client records and data, and the retention schedule of client records and schedule for destruction;

9. Information on accessibility of services, when specified by the departmental component, such as:

i. The hours and days that each service will be available to clients, including how emergencies are handled; for example, closings, client crisis, after-hours contacts;

ii. A list and description of the location(s) where each service will be provided to clients (including in-home provision, if that is an option);

iii. A description of transportation options for clients in obtaining each service; and

iv. A description of handicapped accessibility accommodations;

10. As needed, eligibility requirements and referral processes, such as:

i. A description of the priorities for accepting clients into the program and the procedures to be followed to ensure that all clients accepted meet the eligibility requirements for admission;

ii. An explanation of intake procedures;

iii. An explanation of referral mechanisms and processes (formal and informal) and community outreach procedures, including a description of the accommodations made for non-English speaking individuals; and

iv. As appropriate, termination procedures, including a list of the various reasons for termination, a description of the termination procedures (client and program-initiated), the appeals process, and follow-up services, as well as how non-English speaking persons are accommodated in this process;

11. Dependent upon the service requested, an indication of the level of service anticipated throughout the contract period; for example, number of clients to be served, number of meals served, round trips for transportation, hours;

12. When requested by the departmental component, information on service coordination, specification of ancillary agencies that will be frequently utilized in combination with the service being proposed for funding, including any already existing relationships and agencies which will be referral sources for these services including how formal coordination and referral agreements will be accomplished.

i. A commitment letter and/or affiliation agreement with any ancillary agencies should be requested of such agencies.

13. When requested by the departmental component in the RFP, information on programs managed by the applicant at the time of the application and the funding sources of such programs;

14. A completed Department budget proposal and a statement indicating the anticipated startup costs for the services;

15. A signed debarment certification statement that the applicant is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from Federally funded contracts;



(b) A checklist shall be maintained by the responsible unit or the review panel chairperson regarding receipt of the information in (b)1 through 8 below. This information need only be reviewed by the responsible unit or the chairperson for receipt and completeness and then maintained in the RFP file. A copy of the checklist may be distributed to the review panel to assure them the proposal is complete.

1. A copy of the applicant's organizational chart;
2. A copy of the most recent organization-wide audit report;
3. A copy of the applicant's code of ethics and/or conflict of interest policy;
4. A list of the board of directors, officers and their terms of office;
5. Documentation of the applicant's charitable registration status;
6. A copy of the certification of incorporation of the applicant;
7. Originals and/or copies of letters of commitment from the collaborators; and
8. A list of the name(s) and address(es) of those entities providing support and/or money to help fund the program for which the proposal is being made.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Rewrote (a)3iv; inserted (a)5; recodified existing (a)5 through (a)24 as (a)6 through (a)25; deleted existing (a)25; and added (a)26.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Rewrote the section.

### 10:3-3.7 Composition of review panel

(a) The unit responsible for RFP coordination shall convene a review panel of at least three persons to assess, rate and rank proposals to recommend an applicant for funding. The panel shall be broadly representative and culturally diverse. In no case shall any panel convene absent representation of at least one minority, including that of the CHSAC or the designated entity. The responsible unit shall present an objective process to the review panel for the purpose of rating the proposals.

(b) A panel member must disqualify himself or herself from the panel when he or she has any interest, financial or otherwise, direct or indirect, in the results of the panel's evaluations (see Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq.).

(c) The panel should consist of a diverse group of people having expertise in areas such as contracting, finance, programs/services, including clients, DHS regional and county representatives, and community representatives; or an allo-

cations review panel under the auspices of the CHSAC/designated entity.

(d) The rating system to be used in evaluating criteria, such as numeric, shall generally be determined by the responsible unit.

(e) Recommendations of the panel are regarded as confidential until the awards are publicly announced.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

In (a), inserted the second and third sentences; rewrote (c); and added (e) and (f).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Deleted a former (d); and recodified former (e) and (f) as (d) and (e).

### 10:3-3.8 Evaluation of the proposal

(a) All meetings of the review panel shall be documented, including a summary of the results of the meetings.

(b) The evaluation of the applicant's proposals shall be in writing using a pre-established evaluation form that explains the rating system used for the evaluation.

(c) Proposal shall be evaluated by a review panel using, at minimum, the required general criteria of the written RFP as outlined in N.J.A.C. 10:3-3.6. At a minimum, the information required by N.J.A.C. 10:3-3.6(a) shall be evaluated by a review panel to ensure satisfactory documentation, capability, clarity, reasonableness and consistency with the needs and requirements of the RFP.

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

In (a), substituted "be documented, including a summary of the results of the meetings" for "have written minutes" at the end; rewrote (c); and deleted a former (d).

### 10:3-3.9 Evaluation of applicant

(a) The applicant shall be evaluated to determine the following, and the departmental component or CHSAC/designated entity may conduct an onsite evaluation, if deemed necessary. The CHSAC/designated entity shall evaluate the applicant only on those factors with which they are familiar or about which they have accurate information. The departmental component shall be responsible for evaluation of all information presented by the applicant as specified in the RFP. The following should be included in the presentation:

1. Ability to comply with all terms and conditions of the standard language document and its associated annexes and attachments;
2. Prior history in the delivery of the same or similar services;

3. Qualifications of staff;
4. Adequacy of facilities;
5. Ability to manage the fiscal aspects of the contract including a satisfactory past history (a pre-award survey may be necessary prior to the signing of the contract);
6. Accountability of the program and management initiatives to ensure accountability of the staff, for example, supervision and training of staff, planned levels of service, and contingency plans to ensure attainment of objectives;
7. Evidence of ability (including satisfactory past performance and evaluation) to provide the proposed services to the target population, including limited English proficient and bicultural populations;
8. Evidence of the existence of adequate resources, facilities, and equipment to operate the proposed program;
9. Review of required documents; and
10. Opinions of references or other agencies that contract with the applicant.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

In (a), added the last sentence in the introductory paragraph, added a reference to limited English proficient and bicultural populations at the end of 7, and added 10.

### 10:3-3.10 Notification of selection

(a) Upon determining which proposals are most responsive and advantageous to the needs of the clients to be served or services to be rendered, costs and other factors considered, the Departmental component shall notify all applicants in writing of its selection within the time frames specified in the request for proposal, not to exceed 90 days from publication of the RFP announcement in the New Jersey Register. The informal review process if done by the component, must be completed in a time frame appropriate to the departmental component's policies, which shall be referenced in the RFP and the total RFP process shall not exceed 120 days from publication of the RFP announcement in the New Jersey Register.

(b) Acceptance letters shall indicate that:

1. The award is contingent on contract negotiation and that if, anytime before or during the contract negotiations, it is found that the agency awarded the contract is incapable of providing the necessary services or has misrepresented any material fact or its ability to handle the funding or provide the solicited services, the award may be rescinded. The rescission shall be made in writing, specifying why the award has been withdrawn.

2. The contract is not binding until funding has been verified and the Department's standard language document and the contract confirmation letter are signed by both parties.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

In (a), added requirement that the total RFP process not exceed 105 days.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Rewrote the section.

### 10:3-3.11 Document retention

Awarded contracts, signed originals, all support materials and the recorded copy shall be retained by the departmental component for three years after the termination of the contract and four years thereafter at the records center prior to destruction. Unsuccessful proposals shall be retained for three years by the departmental component and then may be destroyed. The materials to be retained includes the RFP, the applicant proposals, all evaluation sheets, documentation from all review panel meetings, all privatization documentation and any other documentation that details why the agency was selected or not selected.

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Amended requirement to retain unsuccessful proposals from one year to three years.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Inserted a reference to documentation from all review panel meetings and all privatization documentation in the last sentence.

### 10:3-3.12 Contract negotiations

At the time an award is made to the applicant, negotiations shall proceed with the process of preparing and submitting a formal contract proposal package to the Department. The initial proposal as modified and agreed to by both parties may serve as the Annex A program description for the contract.

### 10:3-3.13 Exceptions to procedures

(a) The 120-day limitation may be adjusted accordingly by the Department if:

1. The announcement of the availability of funds limits the Department to less than 90 days for allocation, obligation, and/or expenditure of funds; or
2. The process requires an extension because of unforeseen circumstances.

(b) When there is an emergent danger and/or a risk to the health and welfare of clients as a result of strict adherence to N.J.A.C. 10:3-3, an exemption from the full RFP process may be granted and signed by the person in charge of the departmental component.