

In (a), inserted "the" preceding "DPMC". Former N.J.A.C. 17:19-3.8, Extent of debarment, suspension or disqualification, recodified to N.J.A.C. 17:19-4.8.

17:19-3.9 Term contract project selection procedures

(a) Term contracts may be used by the DPMC to serve a variety of consultant needs in accordance with the DPMC's duties to administer the DPMC's construction portfolio. The initiation of the selection process may be in accordance with the major or the routine project selection procedures, pursuant to N.J.A.C. 17:19-3.6 or 3.7.

(b) Firms are selected based upon technical qualifications and cost.

(c) Pre-proposal conference, site visits and interviews may be scheduled.

(d) Technical proposals shall be evaluated and ranked in accordance with the specific technical criteria for the project.

(e) The selection process regarding the sealed cost proposals shall be in accordance with the major project selection procedures, N.J.A.C. 17:19-3.6(g), except that costs may be based upon hourly daily rates and/or other methods for determining costs over a specific time period.

(f) The selection committee shall have the responsibility to recommend to the Director the selection of the firm that is the highest ranked and whose costs are fair and reasonable to the State.

Amended by R.2000 d.76, effective February 22, 2000.
See: 31 N.J.R. 4237(a), 32 N.J.R. 712(a).

Rewrote (a).
Recodified from N.J.A.C. 17:19-5.10 and amended by R.2008 d.363, effective December 1, 2008.
See: 40 N.J.R. 3959(a), 40 N.J.R. 6825(a).

In (a), inserted "the" preceding either "DPMC" or "DPMC's" three times and updated the N.J.A.C. reference; in (d), substituted "evaluated" for "rated"; and in (e), updated the N.J.A.C. reference. Former N.J.A.C. 17:19-3.9, Prior notice by DPMC, recodified to N.J.A.C. 17:19-4.9.

17:19-3.10 Agency consultant program

(a) The agency consultant program provides a selection process for architectural, engineering or other consultant services to assist client agencies and the DPMC in the planning of construction projects, developing scopes of work, investigating construction-related problems, designing small projects and administering small construction projects.

(b) The DPMC may delegate to client agencies the authority to award projects for consultants to perform professional services for construction projects. The client agency shall evaluate and rank the technical submissions according to selection procedures established by DPMC policy.

(c) An agency consultant fee limit for each work order shall be established by the DPMC, including a fee limit threshold per year.

(d) The client agency shall monitor and manage all activities of the consultant. Financial data and project files shall be available to the DPMC's auditors.

Recodified from N.J.A.C. 17:19-5.11 and amended by R.2008 d.363, effective December 1, 2008.
See: 40 N.J.R. 3959(a), 40 N.J.R. 6825(a).

In (a) and (c), inserted "the" preceding "DPMC"; in (b), inserted "The" and substituted "evaluate" for "rate"; and in (d), inserted "the" preceding "DPMC's". Former N.J.A.C. 17:19-3.10. List of debarred, suspended or disqualified firms or individuals, recodified to N.J.A.C. 17:19-4.10.

17:19-3.11 Client agency management of design/construction projects

(a) The DPMC may delegate authority to client agencies to manage design and/or construction phases of a project with a stipulated construction cost estimate.

(b) The selection of firms to submit technical and cost proposals shall be in accordance with the major project selection procedures, pursuant to N.J.A.C. 17:19-3.6, or routine contracts selection procedures, pursuant to N.J.A.C. 17:19-3.7.

Recodified from N.J.A.C. 17:19-5.12 and amended by R.2008 d.363, effective December 1, 2008.
See: 40 N.J.R. 3959(a), 40 N.J.R. 6825(a).

In (a), inserted "The"; and in (b), updated both N.J.A.C. references. Former N.J.A.C. 17:19-3.11, Director's authority to contract, recodified to N.J.A.C. 17:19-4.11.

SUBCHAPTER 4. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF FIRM(S) AND INDIVIDUAL(S)

17:19-4.1 Causes for debarment of a firm(s) or an individual(s)

(a) In the public interest, the DPMC may debar a firm or an individual for any of the following causes:

1. Commission of a criminal offense 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. Civil or criminal violation of the Federal Organized Crime Control Act of 1970 or the New Jersey Racketeer Influenced and Corrupt Organizations Act, N.J.S.A. 2C:41-1 et seq., or the 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. Violations of the Federal or any state antitrust statutes, or of the Federal Anti-Kickback Act (18 U.S.C. § 874, 40 U.S.C. § 276c);

4. Violations of any of the laws governing the conduct of elections of the Federal government, any state or 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 work 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 individuals 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. Violations of any Federal or state laws that may bear upon a lack of responsibility or moral integrity;

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

10. 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 firm or the individual debarred;

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

12. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by the DPMC to warrant debarment, including such conduct as may be prescribed by the laws or contracts enumerated in this section even if such conduct has not been or may not be prosecuted as violations of such laws or contracts;

13. Debarment or disqualification by any other agency of government;

14. Making any offer or agreement to pay or make payment of, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee of an agency of government with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family as defined by N.J.S.A. 52:13D-13i, of any such officer or employee of an agency of government, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g;

15. Failure by a vendor to immediately report to the Attorney General and to the Executive Commission on Ethical Standards in writing the solicitation of any fee,

commission, compensation, gift, gratuity or other thing of value by any officer or employee of any State agency of government or special State officer or employee as defined by N.J.S.A. 52:13D-13;

16. Failure by a vendor to immediately report in writing, or obtain a waiver from the Executive Commission on Ethical Standards for, the direct or indirect undertaking of any private business, commercial or entrepreneurial relationship (including the selling of any interest in such vendor), regardless of whether the relationship is pursuant to employment, contract or other agreement, express or implied, with the following:

i. Any State officer or employee of any State agency of government or special State officer or employee as defined by N.J.S.A. 52:13D-13, having duties or responsibilities connected with the purchase, acquisition or sale of any property or services by or to any State agency of government or any instrumentality thereof; or

ii. Any firm or entity with which the State officer or employee of an State agency of government is employed or associated or has an interest in within the meaning of N.J.S.A. 52:13D-13g;

17. Influencing or attempting to influence or cause to be influenced, any officer or employee of any agency of government, in that officer's or employee's official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

18. Causing or influencing or attempting to cause or influence, any State officer or employee of any State agency of government or special State officer or employee as defined by N.J.S.A. 52:13D-13, to use, or attempt to use, that officer or employee's official position to secure unwarranted privileges or advantages for the vendor or any other firm or individual; and/or

19. Agreeing with any agency of government to refrain from bidding on public works projects for reasons that, in the discretion of the Director, warrant debarment.

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

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

Substituted references to the DPMC for references to the DBC throughout; deleted "DBC contracting"; inserted "DPMC contracting"; and rewrote "Person".

Recodified from N.J.A.C. 17:19-3.1 and amended by R.2008 d.363, effective December 1, 2008.

See: 40 N.J.R. 3959(a), 40 N.J.R. 6825(a).

In the introductory paragraph of (a) and in (a)12, inserted "the" preceding "DPMC". Former N.J.A.C. 17:19-4.1, Hearings; subject matter; firms or individuals who may request hearings, recodified to N.J.A.C. 17:19-5.1.

17:19-4.2 Conditions affecting the debarment of a firm(s) or an individual(s)

(a) The following conditions apply to debarment:

1. Debarment shall be made only upon approval of the Director, except as otherwise provided by law.