

**CHAPTER 44A**

**CONTRACTS FOR PROFESSIONAL SERVICES**

**Authority**

N.J.S.A. 27:1A-5, 27:1A-6 and 52:34-9.1 et seq.

**Source and Effective Date**

R.2009 d.326, effective September 28, 2009.  
See: 41 N.J.R. 2448(a), 41 N.J.R. 4125(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44A, Contracts for Professional Services, expires on September 28, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 44A, Contracts for Architectural, Engineering and Land Surveying Services, was adopted as R.1998 d.563, effective December 7, 1998 (operative January 14, 1999). See: 30 N.J.R. 3016(a), 30 N.J.R. 4252(b).

Chapter 44A, Contracts for Architectural, Engineering and Land Surveying Services, was readopted as R.2004 d.237, effective May 27, 2004. As a part of R.2004 d.237, Subchapter 4, Effective date, was repealed, effective June 21, 2004. See: 36 N.J.R. 20(a), 36 N.J.R. 3065(b).

Chapter 44A, Contracts for Architectural, Engineering and Land Surveying Services, was renamed Contracts for Architectural, Landscape Architectural, Engineering and Land Surveying Services by R.2004 d.387, effective October 18, 2004. See: 36 N.J.R. 3236(a), 36 N.J.R. 4834(b).

Chapter 44A, Contracts for Architectural, Landscape Architectural, Engineering and Land Surveying Services, was readopted as R.2009 d.326, effective September 28, 2009. As a part of R.2009 d.326, Chapter 44A, Contracts for Architectural, Landscape Architectural, Engineering and Land Surveying Services, was renamed Contracts for Professional Services, effective November 2, 2009. See: Source and Effective Date. See, also, section annotations.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. APPLICABILITY**

16:44A-1.1 Applicability

**SUBCHAPTER 2. DEFINITIONS**

16:44A-2.1 Definitions

**SUBCHAPTER 3. CRITERIA FOR THE SELECTION OF THE MOST HIGHLY QUALIFIED PROFESSIONAL FIRMS**

16:44A-3.1 Criteria for the selection of the most highly qualified professional firms

**SUBCHAPTER 4. (RESERVED)**

**SUBCHAPTER 1. APPLICABILITY**

**16:44A-1.1 Applicability**

The provisions of this chapter shall apply only to contracts for professional services which are in excess of \$25,000 and subject to the procurement provision requirements of N.J.S.A. 52:34-9.1 et seq. Nothing in this chapter shall preclude the Department from using procurement processes other than those prescribed herein if those processes have been approved by the Federal government or other State statute or if an emergency has been declared by the Commissioner of the Department of Transportation.

Amended by R.2004 d.387, effective October 18, 2004.  
See: 36 N.J.R. 3236(a), 36 N.J.R. 4834(b).

Inserted "landscape architectural," preceding "engineering" in the first sentence.

Amended by R.2009 d.326, effective November 2, 2009.  
See: 41 N.J.R. 2448(a), 41 N.J.R. 4125(a).

Substituted "professional" for "architectural, landscape architectural, engineering and land surveying".

**SUBCHAPTER 2. DEFINITIONS**

**16:44A-2.1 Definitions**

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

"Commissioner" means the Commissioner of the New Jersey Department of Transportation.

"Department" means the New Jersey Department of Transportation.

"Professional firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to provide professional services in this State.

"Professional services" means those professional architectural, landscape architectural, engineering and land surveying services, including planning, environmental, and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, landscape architecture, professional engineering or professional land surveying as defined by the laws of this State or those performed by an architect, landscape architect, professional engineer or professional land surveyor in connection with his or her professional employment practice.

Amended by R.2004 d.387, effective October 18, 2004.  
See: 36 N.J.R. 3236(a), 36 N.J.R. 4834(b).

Inserted references to landscape architectural, landscape architecture, and landscape architect throughout the section.

Amended by R.2009 d.326, effective November 2, 2009.  
See: 41 N.J.R. 2448(a), 41 N.J.R. 4125(a).

Deleted definitions "Compensation" and "Professional architectural, landscape architectural, engineering and land surveying services"; in definition "Professional firm", deleted "architectural, landscape architectural, engineering or land surveying" following "professional"; and added definition "Professional services".

### SUBCHAPTER 3. CRITERIA FOR THE SELECTION OF THE MOST HIGHLY QUALIFIED PROFESSIONAL FIRMS

#### 16:44A-3.1 Criteria for the selection of the most highly qualified professional firms

(a) Prior to the solicitation of technical proposals pertaining to the procurement of professional services, the Department shall publicly advertise its need for such services. The advertisement shall conform to the requirements of N.J.S.A. 52:34-12(a) and (b), or be publicly advertised on the Department's website at: [www.nj.gov/transportation/business/procurement/ProfServ/](http://www.nj.gov/transportation/business/procurement/ProfServ/). The advertisement shall either include a statement of the criteria by which the Department shall evaluate the technical qualifications of professional firms and determine the order of preference to be used in designating the firms most highly qualified to perform the services or identify such criteria by reference to the provisions of this chapter.

(b) Any professional firm that wishes to provide professional services to the Department shall pre-qualify by filing a current statement of qualifications and supporting data with the Department pursuant to N.J.S.A. 52:34-9.3. Such statements may be filed at any time during the calendar year, and a fee of \$100.00 shall be remitted by the professional firm at the time each statement is filed. Statements filed more than two years prior to the Department's publication of an advertisement shall not be deemed current statements and shall not be considered for that particular advertised need.

(c) In selecting the most highly qualified professional firms with which to contract for professional services, the Department, where applicable, shall consider the following criteria:

1. The experience and qualifications of the firm and designated project team in providing similar services;
2. The experience and qualifications of the firm and designated project team on projects of similar size and complexity;
3. The experience and capability of the firm and designated project team in respect to any special technologies, techniques, or expertise the project may require;
4. The past performance of the firm; and
5. Criteria unique to a particular project and specified in the Department's public advertisement of that project.

(d) In selecting and ranking qualified professional firms, the Department shall establish weights for the criteria applicable to each project. The Department may disqualify any firm determined to be unacceptably deficient in one or more of the applicable criteria, regardless of the firm's ranking or score on the remainder of the criteria.

Amended by R.2004 d.237, effective June 21, 2004.

See: 36 N.J.R. 20(a), 36 N.J.R. 3065(b).

In (a), added "technical" preceding "proposals" and deleted "or expressions of interest" after "proposals"; rewrote (b)5.

Amended by R.2004 d.387, effective October 18, 2004.

See: 36 N.J.R. 3236(a), 36 N.J.R. 4834(b).

In (a), inserted "landscape architectural," following "professional architectural"; in (b), inserted "landscape architectural," preceding "engineering".

Amended by R.2009 d.326, effective November 2, 2009.

See: 41 N.J.R. 2448(a), 41 N.J.R. 4125(a).

In (a), deleted "architectural, landscape architectural, engineering or land surveying" following the first occurrence of "professional" and substituted "on the Department's website at: [www.nj.gov/transportation/business/procurement/ProfServ/](http://www.nj.gov/transportation/business/procurement/ProfServ/)" for "through electronic means"; added new (b); recodified former (b) and (c) as (c) and (d); and in the introductory paragraph of (c), substituted the second occurrence of "professional" for "architectural, landscape architectural, engineering or land surveying".

### SUBCHAPTER 4. (RESERVED)