

CHAPTER 4

POLICY AND PROCEDURE FOR CONTRACTS AND AGREEMENTS FOR THE PURCHASE OF GOODS AND SERVICES

Authority

N.J.S.A. 52:27C-73h.

Source and Effective Date

R.2006 d.324, effective September 5, 2006.
See: 38 N.J.R. 1528(a), 38 N.J.R. 3622(a).

Chapter Expiration Date

Chapter 4, Policy and Procedure for Contracts and Agreements for the Purchase of Goods and Services, expires on September 5, 2011.

Chapter Historical Note

Chapter 4, Policy and Procedure for Contracts and Agreements for the Purchase of Goods and Services, was adopted as R.2000 d.243, effective June 5, 2000. See: 32 N.J.R. 1142(a), 32 N.J.R. 2084(a).

Chapter 4, Policy and Procedure for Contracts and Agreements for the Purchase of Goods and Services, expired on June 5, 2005 and was adopted as new rules by R.2006 d.324, effective September 5, 2006. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 12A:4-1.1 Purpose
- 12A:4-1.2 Definitions

SUBCHAPTER 2. THRESHOLD AMOUNT FOR ADVERTISEMENT

- 12A:4-2.1 Price exceeds bid threshold
- 12A:4-2.2 Price is less than or equal to the bid threshold
- 12A:4-2.3 Price exceeds the bid threshold and advertisement has been waived

SUBCHAPTER 3. WAIVER OF ADVERTISEMENT

- 12A:4-3.1 General information
- 12A:4-3.2 Requisite circumstances for waiver
- 12A:4-3.3 Recommendation for waiver

SUBCHAPTER 4. POLICY AND PROCEDURE FOR ADVERTISEMENTS

- 12A:4-4.1 Publications
- 12A:4-4.2 Direct mailing
- 12A:4-4.3 Re-Advertisement

SUBCHAPTER 5. UNADVERTISED PROCUREMENT

- 12A:4-5.1 Commission's discretion
- 12A:4-5.2 Mechanism for soliciting and receiving bids

SUBCHAPTER 6. BID REQUEST

- 12A:4-6.1 Bid request
- 12A:4-6.2 Pre-bid conferences

SUBCHAPTER 7. RECEIPT AND OPENING OF BIDS SUBMITTED IN RESPONSE TO PUBLIC ADVERTISEMENT

- 12A:4-7.1 Receipt of bids submitted in response to a public advertisement
- 12A:4-7.2 Opening of bids
- 12A:4-7.3 Confidentiality of bidder information
- 12A:4-7.4 Bid errors

SUBCHAPTER 8. AWARD OF PURCHASE, CONTRACT, OR AGREEMENT

- 12A:4-8.1 Time frame for issuance of award

SUBCHAPTER 9. EVALUATION OF A BID SUBMITTED IN RESPONSE TO PUBLIC ADVERTISEMENT

- 12A:4-9.1 Cause for rejection of bids
- 12A:4-9.2 Evaluation of bids

SUBCHAPTER 10. BID SECURITY

- 12A:4-10.1 Security amount
- 12A:4-10.2 Release of security

SUBCHAPTER 11. AWARD PROTESTING PROCEDURES

- 12A:4-11.1 Informal hearings
- 12A:4-11.2 Request for information hearings; hearing procedures; time limitations
- 12A:4-11.3 Parties to the hearing

SUBCHAPTER 12. DEBARMENT, SUSPENSION AND DISQUALIFICATION

- 12A:4-12.1 Definitions
- 12A:4-12.2 Procedure for debarment, disqualification and suspension
- 12A:4-12.3 Causes for debarment of a person(s)
- 12A:4-12.4 Conditions affecting the debarment of a person(s)
- 12A:4-12.5 Period and scope of debarment/disqualification
- 12A:4-12.6 Causes for suspension of a person(s)
- 12A:4-12.7 Conditions affecting suspension of a person(s)
- 12A:4-12.8 Procedures, period and scope of suspension
- 12A:4-12.9 Extent of debarment, suspension or disqualification
- 12A:4-12.10 List of debarred, suspended or disqualified persons

SUBCHAPTER 1. GENERAL PROVISIONS

12A:4-1.1 Purpose

This chapter describes the New Jersey Commerce, Economic Growth and Tourism Commission's policy and procedure for contracts and agreements for the purchase of goods and services. All purchases, contracts and agreements must comply with this chapter, unless a bidder is specifically instructed otherwise in the bid request.

12A:4-1.2 Definitions

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

“Award” means a written notification or purchase order that the Commission has determined that it shall contract with a particular vendor.

“Bid” means a vendor’s formal submission of a response to a bid request.

“Bid Notice” means a notice made available to potential vendors of goods and services that are sought by the Commission, through public advertisement.

“Bid Request” means a document issued to potential vendors that contains the specifications required for goods and services.

“Bid threshold” means the dollar amount set forth at N.J.S.A. 52:27C-76a, \$25,000, as adjusted by the Governor in consultation with the Department of Treasury (for example, \$29,400, effective as of State fiscal year 2007), pursuant to N.J.S.A. 52:27C-76b, above which the Commission shall advertise for bids in accordance with procedures set forth at N.J.S.A. 52:27C-76 and this chapter.

“Board of Directors” means the 11 voting members and two non-voting members of the Commission as set forth in N.J.S.A. 52:27C-68.

“Chief Executive Officer” means the person appointed by the Governor with the advice and consent of the Senate who shall serve at the pleasure of the Governor during the Governor’s term of office and until a successor is appointed and qualified.

“Commission” means the Commerce, Economic Growth and Tourism Commission.

“Goods or services being requested” means the subject matter of the contract or agreement.

SUBCHAPTER 2. THRESHOLD AMOUNT FOR ADVERTISEMENT

12A:4-2.1 Price exceeds bid threshold

All contracts or agreements for the purchase of goods and services, where the cost or contract price exceeds the bid threshold, as defined at N.J.A.C. 12A:4-1.2, shall, except as otherwise provided, be made, negotiated, or awarded only after public advertisement for bids therefore and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Commission in its judgment, upon consideration of price and other factors. Any or all bids may be rejected when the Commission determines that it is in the public interest to do so.

12A:4-2.2 Price is less than or equal to the bid threshold

All contracts or agreements for the purchase of goods and services, where the cost or contract price is less than or equal

to the bid threshold, shall be made, negotiated, or awarded without public advertisement, as provided in N.J.A.C. 12A:4-5.

12A:4-2.3 Price exceeds the bid threshold and advertisement has been waived

All contracts or agreements for the purchase of goods and services, where the cost or contract price exceeds the sum of the bid threshold, and where advertising has been waived pursuant to N.J.A.C. 12A:4-3, shall be made, negotiated or awarded without public advertisement, as provided in N.J.A.C. 12A:4-5.

SUBCHAPTER 3. WAIVER OF ADVERTISEMENT

12A:4-3.1 General information

Any contract or agreement for the purchase of goods and services, where the cost or contract price exceeds the bid threshold, may be made, negotiated, or awarded by the Commission without advertisement for bids, pursuant to the provisions in this subchapter.

12A:4-3.2 Requisite circumstances for waiver

(a) The waiver of advertisement is possible only under the following circumstances:

1. When the subject matter consists of:
 - i. Items or services supplied by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges made, charged or extracted by the public utility for those items or services are filed with the Commission; or
 - ii. The purchase, rental, lease of such office space, office machinery, specialized equipment, buildings or real property as may be necessary for or incidental to the performance of the Commission’s duties and the exercise of its powers under N.J.S.A. 52:27C-61 et seq.; or
2. When any one or more of the following circumstances exist:
 - i. Standardization of equipment and interchangeability of parts is in the public interest;
 - ii. Only one source of supply or service is available;
 - iii. The exigency of the Commission’s duties and responsibilities will not admit of advertisement;
 - iv. More favorable terms can be obtained from a primary source of supply of an item or service;
 - v. Bid prices, after advertising, are not reasonable or have not been independently arrived at in open competition, but no negotiated purchase, contract, or