

6/30/60

CONTRACTS



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CONTRACTS

40A:6-1. Power to make purchases and execute contracts.

a. A local unit may make purchases, execute contracts, acquire real property, lease any of its real property not needed for public purposes only in accordance with the provisions of this chapter.

b. A local unit may sell any of its real property or personal property not needed for public purposes only in accordance with the provisions of this chapter.

40A:6-2. Appropriations to finance contracts.

A local unit shall not enter into any contract, the cost of which is to be paid from funds which have not been appropriated in the budget for the year unless prior thereto the governing body shall have adopted an appropriation sufficient to meet the costs of such contract.

This section shall not apply to funds of departments for the operation of which budget appropriations are not made.

Subject to the approval of the board, this section shall not apply to contracts for professional services for the liquidation or foreclosure of tax liens where it is agreed that the cost of the services are to be paid in whole or in part from the funds derived or to be derived from the redemption of lien property or the sale of foreclosed property.

40A:6-3. Public advertisement for bids.

a. Except as provided in this chapter, all purchases, contracts or agreements, the cost or price of which is to be paid with or out of funds of a local unit shall be awarded to the lowest responsible bidder on the basis of public advertising for bids therefor.

b. A local unit may reject all bids when it determines that it is in the public interest to do so and may, in its sole discretion, choose any one or two or more of the bidders who have submitted equal bids and who are the lowest responsible bidders.

40A:6-4. Public advertisement for bids not required.

Any purchase, contract or agreement may be made or awarded by a local unit without public advertising for bids where

a. the aggregate amount involved does not exceed \$2,500.;

b. the governing body by resolution passed by the affirmative vote of a majority of the full membership thereof determines that an emergency exists and the public interest requires. Said resolution shall state the nature of the emergency and the amount to be spent therefor;

c. the purchases are to be made from or the contract is to be made with the federal or any state government or any agency or political subdivision thereof, or any other local unit, or any political subdivision to which the local unit contributes tax-raised funds;

d. it contracts with a public utility organized under the laws of the State of New Jersey and which is subject to regulation by the Public Utilities Commission of this State for its services and for the use of the product of its manufacture;

e. it contracts for services which have been determined by resolution passed by the affirmative vote of a majority of the full membership of the governing body to be of such a technical or unique nature that public bidding is neither feasible nor practical;

f. it contracts for equipment of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts;

g. it purchases perishable foods or subsistence supplies;

h. only one source of supply is available, and the governing body so certifies by resolution passed by the affirmative vote of a majority of the full membership thereof;

i. it purchases any materials, supplies, equipment or apparatus pursuant to an open-end contract for the same, entered into on behalf of the State, and the Division of Purchase and Property is hereby empowered to make such open-end contracts. Such contract may include a provision for the purchase of such materials, supplies, equipment or apparatus by any local unit from such contractor.

40A:6-5. Contents of advertisements for bids.

Advertisements for bids shall be so drawn as to promote the

fullest and freest competition possible.

a. Advertisements for bids shall be published at least once, not less than 10 days prior to the date fixed for receiving such bids, in a newspaper designated by the governing body from those having a general circulation in the local unit.

b. Every advertisement shall state

1. the amount of deposit, by way of cash, certified check or other security, if any, which must accompany the bid,

2. the time and place for the opening of such bids,

3. the complete address to which all bids must be mailed by bidders who do not choose to personally submit their bids,

4. the postmarked date which each envelope containing a mailed bid must bear in order to be considered, and the legend that must appear on each such envelope so that it can be identified as containing a bid and thus remain sealed and unopened until all sealed bids are publicly opened and read, and

5. such other terms and conditions as the local unit may deem necessary and proper, including a statement as to whether any required deposit shall be in limitation of damages.

c. All bids shall be publicly opened, read and considered at the time and place fixed for the opening of such bids. The governing body shall make a proper record of the prices and terms of the bids upon its minutes.

40A:6-6. Contents of specifications for bids.

Specifications for bids shall be so drawn as to promote the fullest and freest competition possible.

a. Specifications shall adequately describe the work or services to be performed or the materials to be furnished, or both, and shall designate the date upon which such work or services shall be completed or such material delivered, and any other information necessary to provide bidders with adequate information of what is required.

b. All specifications for work shall fix the date on or before which the same shall be completed, or shall fix the number of working days to be allowed for the completion of the said work.

c. Where the contract is for the collection, removal or disposal of garbage, ashes, trash or other debris¹, in addition to the foregoing, the specifications shall include a requirement that if the local unit will not use its own dump area, every bidder for such a contract must submit, along with his bid, proof that he has adequate dumping facilities for the entire period of the contract.

40A:6-7. Time for granting bids.

Unless otherwise provided in the specifications, the award to the lowest responsible bidder shall be made within 90 days after the day upon which the sealed bids were publicly opened and read.

40A:6-8. Return of deposit to unsuccessful bidders.

All cash or proposal checks delivered with the bids shall be returned to the unsuccessful bidders within three days after the contract has been signed.

40A:6-9. Separate bids for building construction.

In the preparation of plans and specifications for the erection, construction, alteration or repair of any public building by any local unit or political subdivision thereof, when the entire cost of the work will exceed \$2,500, the person preparing the plans and specifications shall, if the governing body so determines, prepare separate plans and specifications for

- a. general construction,
- b. structural steel and ornamental iron work,
- c. heating and ventilating apparatus and kindred work,
- d. plumbing and gas fitting and kindred work,
- e. electrical work.

The local unit in such case may receive separate bids for each of said branches of work and award contracts therefor to the lowest responsible bidder for each of such branches respectively.

40A:6-10. Limitation on term of contracts.

Any purchase contract or agreement entered into by a local unit pursuant to this chapter shall not exceed a term of one year except as provided in any other law.

40A:6-11. Surety requirements.

a. When a local unit demands a surety company bond, it may prescribe the form and manner of execution and approval of all guarantee, indemnity, fidelity and all other bonds of surety given to the local unit, and in such case, it shall require from every bidder submitting a bid a certificate from a surety company authorized to do business in New Jersey, stating that such company will give to the bidder a bond in the sum required by the local unit.

b. A local unit may permit the bidder to submit the bond of an individual rather than a surety company. In such case, the bidder may submit with his bid a certificate, signed by such individual surety, similar to that required of a surety company in paragraph a hereof. The local unit may reject any bid, if it is not satisfied with the sufficiency of the individual surety.

40A:6-12. Standard questionnaire.

Any local unit may adopt a standard form of statement or questionnaire for bidders on public work and may require from any person proposing to bid on any contract for public work a statement, under oath, standardized for like classes of work, showing his financial ability, adequacy of plant and equipment, ability to perform the contract, and prior experience in performing public work, before furnishing him with the plans and specifications therefor. If not satisfied with the sufficiency of the statement, the local unit may refuse to furnish plans and specifications to him.

40A:6-12. (cont'd)

No action for damages shall lie against any officer, board or department of any local unit for refusal to furnish plans and specifications on public work duly advertised.

40A:6-13. Bidders' or owners' certificate proving possession of necessary equipment to perform contract.

Any local unit may require from any bidder a certificate stating that it owns all the necessary equipment required to perform any work bid for within the time specified. In addition, if the bidder is not the owner of the required equipment, the said certificate shall further state the name and address of the owner of such equipment and shall be accompanied by a certificate of such owner unconditionally granting to the bidder the use of the required equipment until the work bid for shall have been completed.

40A:6-14. Payment of inspectors' wages.

Every contract executed by any local unit for any work requiring inspection shall provide that the person doing the work shall reimburse the local unit for the wages of any inspector or inspectors incurred after the day or time fixed for the completion thereof.

40A:6-15. Public sale of personal property.

Any local unit may, by resolution of its governing body, sell its personal property not needed for public purposes at public sale to the highest bidder and appropriate the proceeds thereof to the legal use of the local unit. Notice of the date, time and place of sale, along with the description of the items to be sold shall be

40A:6-15. (cont'd)

published in a newspaper having a general circulation in the local unit once during the week prior to such sale, which must be held not less than 7 nor more than 14 days after the last publication of notice thereof.

If no bids are received at such sale, the property may then be sold at private sale without further publication or notice.

A local unit may reject all bids submitted at such sale if it determines that it is in the public interest to do so.

40A:6-16. Sale of personal property without bids.

A local unit may sell its personal property not needed for public purposes without advertising for bids when it makes such sale to the United States, the State of New Jersey, another local unit or to any political subdivision to which it contributes tax-raised funds or if the estimated fair value of the property does not exceed an aggregate amount of \$500.00 in any one sale.

40A:6-17. Public sale of real property.

A local unit may sell or lease its real property not required for public purposes or any right, title or interest therein at a public offering.

a. Notice of the time, place, terms and conditions of such offering shall be by advertisement sufficiently descriptive to establish a common and definite standard upon which competitive bids can be solicited.

40A:6-17. (cont'd)

b. Such advertisement shall be published once each week for two consecutive weeks in a newspaper having a general circulation in the local unit offering the property for sale and in the local unit wherein such realty is situate.

c. The public offering shall be held not less than 7 nor more than 14 days after the last such publication.

d. The local unit may, by resolution, fix a minimum sale price or the minimum amount of rent to be reserved in the event of a lease, notice of either or both of which shall be contained in the advertisement.

e. No such sale or lease shall have any legal effect unless and until it shall have been approved by the governing body within 45 days after the date of such public offering.

40A:6-18. Sale or lease of real property by ordinance.

Any local unit may authorize the sale or lease of its real property not needed for public purposes or any right, title or interest therein to the highest responsible bidder by passage of an ordinance to that effect.

a. The ordinance in its entirety shall be published once each week for two consecutive weeks in a newspaper having a general circulation in the local unit which is offering the property for sale and in the local unit wherein such property is situate.

40A:6-18. (cont'd)

b. Such ordinance shall list and describe the property so that it may be identified and shall state after each property listed the minimum price or minimum rent therefor and any other terms and conditions of the proposed sale or lease.

c. Such ordinance shall also state that offers for the property will be received for a specified period of time which in no event shall exceed 45 days, commencing on a stated date which shall be not less than 7 days nor more than 14 days after the last publication.

d. Such ordinance shall direct that any prospective purchaser, lessee or duly authorized agent of either may submit offers for any or all of the properties listed at not less than the minimum prices declared in said ordinance.

40A:6-19. Private offering of real property for sale.

Any local unit may sell or lease any of its real property not needed for public purposes or any right, title or interest therein upon receipt of an offer to that effect incorporating the terms and conditions upon which it is being submitted.

a. Every such offer shall thereafter be considered by the governing body at a regular meeting at which any such offer may be rejected or conditionally accepted.

b. If such offer is conditionally accepted, notice of the terms and conditions of the proposed sale or lease, accompanied by a description of the property in question sufficient to assure its

40A:6-19 (cont'd)

identification, together with a statement of the date, time and place of the meeting of the governing body at which such conditionally accepted offer shall be further considered, along with any better offer then and there made shall be published in a newspaper having a general circulation in the local unit receiving such offer and in the local unit wherein the property is situate once each week for three consecutive weeks.

c. Thereafter, at such advertised meeting of the governing body, which shall be a regular meeting and which shall be not less than 7 nor more than 14 days after the date of the last publication, such conditionally accepted offer or any other offer there made can be finally accepted.

d. The local unit may reject all offers, including the conditionally accepted offer.

e. In no event shall there be a sale or lease to other than the highest responsible bidder.

40A:6-20. Payment of commission to broker.

A local unit may pay a commission of not more than 5% to a duly licensed real estate broker who consummates a sale or lease under sections 40A:6-17, 40A:6-18 and 40A:6-19 hereof. Where such a sale is effected, the commission shall be due and payable when, as and if legal title passes to the purchaser.

Where a leasehold is involved, the right to such commission

40A:6-20. (cont'd)

shall accrue upon the execution of the lease, but the commission shall be payable over the term of the lease in annual shares as nearly equal as possible, arrived at by dividing the total amount of the commission by the number of years of the leasehold estate.

40A:6-21. Local unit may take purchase money mortgage.

A local unit may accept a purchase money mortgage as part of the purchase price of its real property, provided, however, that the principal and interest on such mortgage must and shall be payable within five years from the date of sale and shall bear interest at not less than 5 1/2%.

40A:6-22. Renewals of leasehold.

Any lease executed pursuant to this chapter and containing an option for its renewal by the tenant may be renewed without complying with any of the provisions of this chapter only if the rent reserved is equal to or greater than that reserved under the original lease.

40A:6-23. Limitation on sale of recreational land.

A local unit may not sell, lease, convey, exchange or otherwise divest itself of the title to, or the use of, or both, any realty dedicated to public recreational uses and purposes, unless such local unit has become, prior thereto or contemporaneously therewith, the owner in fee of an equal or greater area of realty which possesses facilities for public recreational uses and purposes

40A:6-23. (cont'd)

which are substantially equal to those possessed by the real property of which divestment of title or use, or both, may be desired.

40A:6-24. Sale or lease of real property to public or charitable bodies.

A local unit may sell its real property not needed for public purposes or any right, title or interest therein by private sale by ordinance passed by the affirmative vote of a majority of the full membership of the governing body, determine the consideration, if any, to be paid when it executes any instrument of conveyance to perfect title to real property previously lawfully conveyed by it or when it sells or leases real property not needed for public purposes to:

a. an incorporated or unincorporated volunteer fire company, to be used only for its purposes;

b. a veterans' organization, exempt firemen's association, rescue squad, or to any incorporated boys' club, affiliated with or a member of the Boys' Club of America, or to any incorporated or unincorporated association known as Young Men's Christian Association, Young Women's Christian Association, Catholic Youth Organization, Young Men's and Young Women's Hebrew Association, or to any incorporated or unincorporated Boy Scout Council, club or troop affiliated with the Boy Scouts of America or Girl Scout Council, club or troop affiliated with the Girl Scouts of America,

40A:6-24. (cont'd)

or to any local chapter of the New Jersey Association for Retarded Children. Any such sale or lease shall be conditioned upon the use of the real property only for the charitable purposes of any of such organizations;

c. a duly incorporated non-profit hospital association or historical society to be used only for their purposes;

d. paraplegic veterans. A paraplegic veteran means any officer, soldier, sailor, marine, nurse or other person, male or female, who, when regularly enlisted or inducted in the active military or naval forces of the United States in any war in which the United States was engaged, resided in this State. Additionally, such person must be domiciled in this State at the time of any such sale or lease and must then be suffering from paraplegia resulting in permanent paralysis of both legs or the lower part of the body resulting from injury sustained through enemy action or accident while in such active military or naval service.

40A:6-25. Penalty for violation of chapter.

Any person authorizing, consenting to, making or procuring to be made any contract or agreement in violation of any of the provisions of this chapter, or making or procuring to be made any payment for or on account of any contract or agreement made or entered into in violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and the said contract shall, at the option of the local unit, be void.

40A:6-26. Establishment and powers of a purchasing department.

The governing body of any local unit may provide for the establishment of a purchasing department. In any local unit where such a department has been established, public advertising shall be prepared and bids received and awards made by it, subject, however, to the approval of the governing body.