

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Local Public and Public School Contracts Laws

Readoption with Amendments: N.J.A.C. 5:34-1, 2, 3, 4, 6, 7, 8, and 9 and 5:34 Appendices A, B, and C

Proposed: May 20, 2013, at 45 N.J.R. 1205(a).

Adopted: September 12, 2013, by Thomas H. Neff, Director,
Division of Local Government Services.

Filed: September 13, 2013, as R.2013 d.123, **with substantial and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:18A-49.2 and 40A:11-37.1.

Effective Dates: September 13, 2013, Readoption;
October 7, 2013, Amendments.

Expiration Date: September 13, 2020.

Summary of Public Comments and Agency Responses:

Public comments were submitted by William G. Dressel, Jr. on behalf of the New Jersey League of Municipalities and in consultation with the Governmental Purchasing Association of New Jersey, which are summarized below.

(Agency Note: Any additions to the proposal or existing rule text suggested by the commenter (where quoted) are indicated in boldface **thus**; any deletions from the proposal or existing rule text suggested by the commenter are indicated in brackets [thus].)

COMMENT: N.J.A.C. 5:34-1.2. The definition of the terms “aggregate” and “aggregation” should be amended as the current definition is confusing and requires clarification. The following change is suggested:

“Aggregate” or “aggregation” means the sums expended or to be expended for the provision[s] or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the [same contract year through a contract] **term of the contract** awarded by a contracting [agency] **agent**.

RESPONSE: With respect to replacing the phrase “same contract year through a contract” with “term of the contract,” the Director concurs with the commenter’s suggested revision in that it clarifies the intent and purpose of the adopted rule. This revision is technical in nature and does not alter the intent and purpose of the adopted rule. However, the Director does not concur that changing the word “agency” to “agent” is necessary to clarify the rule due to the fact that a contracting agency is the entity ultimately awarding the contract.

COMMENT: N.J.A.C. 5:34-1.2 and 4.1. The definition of the term “contracting unit” should be amended to replace the reference to “school district” with the phrase “board of education.” This is because the entity serving as the contracting unit is actually the board of education rather than the school district. The definition of “administrator” in N.J.A.C. 5:34-4.1 should be similarly amended.

RESPONSE: The Director concurs with the commenter’s suggested revision in that it better conforms the adopted rule to the language set out in the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. This revision is technical in nature and does not alter the intent and purpose of the adopted rule.

COMMENT: N.J.A.C. 5:34-2.2(e). This subsection should be amended to incorporate the use of competitive contracting as a procurement method, as follows:

(e) No firm, having been previously **contractually** retained under this exception to study, survey or prepare specifications for a given system, function or equipment, may be selected without competitive bidding **or competitive contracting** to operate, implement or provide any material or services on the basis of intimate or specialized knowledge acquired as a result thereof. Appropriate care shall be taken so that such a firm is not authorized to participate in competitive bidding or competitive contracting if its earlier participation would give it an unfair advantage.

RESPONSE: The Director concurs with the commenter’s suggested revision in that it makes explicit something that can presently be inferred from the sentence; that the word “retained” is to be understood in the context of a contractual obligation. Adding the word “competitive contracting” to the first sentence expressly states that competitive contracting is contemplated as a procurement method. This makes explicit an inference that can be drawn from the presence of the words “competitive contracting” in the section sentence of subsection (c).

COMMENT: N.J.A.C. 5:34-4.1. The definition of “authorized agent” should be amended to reflect recent statutory changes which limit a governing body to appointing only one individual as the contracting unit’s Qualified Purchasing Agent, as follows:

“Authorized agent” means a **(1) duly appointed** qualified purchasing agent, **(2) legal counsel**, or **(3) administrator** of a contracting unit using competitive contracting in accordance with this subchapter.

RESPONSE: The Director concurs with the commenter’s suggested revision in that it conforms to current statute with respect to the appointment of a qualified purchasing agent. Current law requires contracting agencies subject to the Local Public Contracts Law and Public School Law, respectively, to appoint an individual possessing the requisite qualifications to the position Qualified Purchasing Agent before the contracting agency can utilize an increased bid threshold.

COMMENT: N.J.A.C. 5:34-4.2(a)2iv(2). This sub-subparagraph should be amended to have the qualifications mirror the statutory language regarding set-aside programs. The current rule is confusing in that it excludes veterans, but includes “disadvantaged,” which is undefined. The rule should include the statutory reference to set-aside programs in the event the law is amended in the future. Commenter suggests the following change:

(2) Does the vendor make use of [business capabilities or initiatives that involve women, the disadvantaged, small and/or minority-owned business establishments] **qualified minority, women’s, small business, and/or veteran business set-aside programs pursuant to N.J.S.A. 40A:11-42 or 18A:18A-51, as appropriate?**

RESPONSE: The Director does not concur with the commenter’s suggested revision. The rule sets forth proposed criteria that are not intended to be, nor are they all-inclusive. Moreover, it would be inappropriate to mirror the language used by N.J.S.A. 40A:11-42 or 18A:18A-51 as such programs are optional on the part of the contracting agency and not integral to the competitive contracting process.

COMMENT: N.J.A.C. 5:34-7.2. The term “cooperative pricing system” should be defined as used in the definition of “cooperative purchasing system.” Other terms such as “joint purchasing system,” “commodity resale system,” and “county cooperative purchasing system” are defined in N.J.A.C. 5:34-7.2. The term “cooperative pricing system” should be defined as follows:

“Cooperative pricing system” means a purchasing system in which a local contracting unit advertises for bids and awards a master contract to a successful vendor for its own quantities

and the estimated quantities submitted by the individual registered members.

RESPONSE: The Director concurs with the commenter's suggested revision in that it expressly states a definition of a cooperative pricing system that is recognized as standard by the local government and public school procurement community, and is consistent with the definition of "regional cooperative pricing system" set forth in N.J.A.C. 5:34-7.2.

COMMENT: N.J.A.C. 5:34-7.25(a). The regulation uses the term "registered members," while other cooperative purchasing systems can accept contracting units throughout the State, county cooperative purchasing systems can only accept contracting units located within their county's geographic boundaries. The following change is suggested:

5:34-7.25 County cooperative contract purchasing system county requirements for bids

(a) Each request for bids to be included in the county cooperative contract purchasing system by the county shall contain the following:

1. Language requiring uniform bid price(s) for both the county and [registered members] **those contracting units located within the county's geographic boundaries.** A provision with respect to the registered members shall be included substantially as follows:

...

2. A statement as to the procedure to be followed in the event that the lowest responsible bidder declines to extend prices to the [registered members] **contracting units located within the county's geographic boundaries.** The contract for the stated needs of the county will be awarded to the lowest responsible bidder, and specifically not made available to contracting units within the county.

RESPONSE: The Director concurs with the commenter's suggested revision in that it clarifies the intent and purpose of the adopted rule. This revision is technical in nature and does not alter the intent and purpose of the adopted rule because the Division of Local Government Services would only permit as registered members those contracting units within the county's geographic boundaries to be registered in the county cooperative contract purchasing system.

COMMENT: N.J.A.C. 5:34-9.6 should be amended to reflect statutory changes made pursuant to P.L. 2007, c. 42, which eliminated certain mandates imposed on public school districts. The law requires that the board of education make available to the Director of the Division of Local Government Services only upon request any documents relating to the solicitation and award of such contract. The following amendment is suggested:

(a) A contracting unit that procures materials, supplies or equipment for at least 10 percent less than the State cooperative contract price, pursuant to N.J.S.A. 40A:11-5(4) [or 18A:18A-5(e)], shall submit the following documentation to the Director of **the Division of Local Government Services** within five working days of the award of any such contract:

...

7. A copy of the adopted resolution, approving or awarding the contract for the purchase of materials, supplies or equipment, approved by two-thirds affirmative vote of the full membership of the governing body [or, in the case of boards of education, a copy of the motion made approving or awarding the contract for the purchase of materials, supplies or equipment, carried and recorded in the written minutes of the meeting].

...

(c) The Division has provided an optional submission checklist in chapter Appendix B, "Purchasing At 10 Percent Less Than The State Cooperative Contract Price N.J.S.A. 40A:11-5(4) [and N.J.S.A. 18A:18A-5(e)]." The checklist is intended to help contracting units comply with the provisions of this section. The checklist is available in the public contracts law section of the Division's website at www.state.nj.us/dca/lgs.

RESPONSE: The Director concurs with the commenter's suggested deletion of statutory and textual references to boards of education. P.L. 2007, c. 42, no longer requires board of education to submit the information specified in N.J.A.C. 5:34-9.6 to the Director of the Division of Local Government Services when awarding a contract for purchase of goods or services at 10 percent less than the State contract price. Rather, this statutory change requires the submittal of such information by boards of education only upon request of the Director. The Director does not concur with the commenter's suggestion to insert the phrase "Division of Local Government Services" after the word "Director" because the term "Director" is a defined term in the chapter.

COMMENT: N.J.A.C. 5:34 Appendix B should be changed to address the changes made in P.L. 2007, c. 42. The following amendment is suggested:

APPENDIX B

N.J. DIVISION OF LOCAL GOVERNMENT SERVICES
SUBMISSION CHECKLIST

Purchase At 10 Percent Less Than the State Cooperative Contract Price

N.J.S.A. 40A:11-5(4) [and N.J.S.A. 18A:18A-5(e)]

...

The Local Public Contracts Law at N.J.A.C. 40A:11-5(4) [and the Public School Contracts Law at N.J.S.A. 18A:18A-5(e)] requires information on this particular type of purchasing transactions to be filed with the Director of the Division of Local Government Services. The rule, N.J.A.C. 5:34-9.6 codifies and supplements the requirements of the provisions of law. The rule requires documentation to be submitted to the Director within five working days of the award of any such contract.

...

7. Copy of the adopted resolution approved by two-thirds affirmative vote of the full membership of the governing body [or, in the case of boards of education, copy of the motion made, carried and recorded in the written minutes of the meeting].

RESPONSE: The Director concurs with the commenter's suggested revision in that it conforms to current statute with respect to the Director's discretion to request from boards of education the documents referenced in Appendix B, rather than the mandatory submission of same.

COMMENT: N.J.A.C. 5:34-9.7, which pertains to use of the General Services Administration's Federal Supply Schedules, should be changed to reflect the changes made in P.L. 2006, c. 10. These changes expanded the scope of Federal procurement programs that contracting units could use to meet their purchasing needs. The following change is suggested:

(a) A contracting unit statutorily subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., **may use without advertising for bids, or having rejected all bids obtained pursuant to N.J.S.A. 40A:11-13.2 or 18A:18A-22, as appropriate, the Federal Supply Schedules procurement programs, or update thereto. A contracting unit shall, pursuant to N.J.S.A. 40A:11-12(b) or 18A:18A-10(b),** [that procures reprographic equipment or services, including digital copiers, listed in any of the Special Item Numbers of the Federal Supply Schedule 36, Part IV, or update thereto, shall, pursuant to N.J.S.A. 40A:11-12(b) or 18A:18A-10(b)] submit the following documentation to the Director of the Division of **Purchase and Property** within five working days of the award of any such contract.

1. A copy of the purchase order;

2. A copy of the requisition or request for purchase order (if applicable);

3. Documentation [verifying] **identifying the price of the goods or services** [and description of the reprographic equipment or services, including digital copiers], under the Federal Supply Schedules **or schedules from other federal procurement programs;**

[4. Written certification of the contracting unit’s purchasing agent verifying that the price of the reprographic equipment or services, including digital copiers, is no greater than the State contract price or, in the alternative, provide the rationale justifying payment of the higher Federal Supply Schedule price;

5. A copy of the vendor’s consent to the terms and conditions of the State contract governing in the event of a conflict with the vendor’s Federal contract; and

6. A copy of the adopted resolution approving or awarding the contract for the purchase of materials, supplies or equipment approved by the membership of the governing body or, in the case of boards of education, copy of the motion, approving or awarding the contract for the purchase of materials, supplies or equipment made, carried and recorded in the written minutes of the meeting.]

(b) All purchase orders or contract documents shall include the identifier “N.J.A.C. 5:34-9.7” and if available, State contract number issued by the Division of Purchase and Property in order to validate the legal basis under which the purchase was made.

(c) Contracting units statutorily authorized to contract under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. and procuring goods or services [listed in any Special Item Numbers of the Federal Supply Schedule 36, Part IV] under the General Services Administration’s Federal Supply Schedules or schedules from other federal procurement programs or update thereto, shall comply with administrative rule promulgated by the Department of the Treasury Purchase Bureau at N.J.A.C. 17:12-1A.5, Use of Federal Supply Schedules.

(d) The Division has provided an optional submission checklist in chapter Appendix C, “Use of the General Services Administration’s Federal Supply Schedules N.J.S.A. 40A:11-12b and N.J.S.A. 18A:18A-10b.” The checklist is intended to help contracting units comply with the provisions of this section. The checklist is available in the public contracts law section of the Division’s website.

(e) The contracting unit shall retain a copy of the following documentation:

1. Documentation verifying that the price of the goods or services being procured is no greater than the price offered to federal agencies.

2. Documentation verifying that the contracting unit is receiving the benefit of federally mandated price reductions during the term of the contract; and

3. Documentation verifying that the price of the goods or services being procured is no greater than the price of the same or equivalent goods or services under the State contract, unless the contracting unit determines because of factors from other federal procurement programs would be more advantageous to the contracting unit.

A copy of such documentation shall remain on file in accordance with the Records Retention Schedule promulgated by the State Records Council.

RESPONSE: The Director concurs with the commenter’s suggested revision, in so far as it is necessary to conform to current statutory language, as instituted by P.L. 2006, c. 10, which expands the scope of Federal procurement programs that contracting units could use to meet their purchasing needs. P.L. 2006, c. 10 also transfers the entity that must receive the documentation stated in N.J.A.C. 5:34-9.7 from the Division of Local Government Services to the Division of Purchase and Property in the Department of the Treasury. However, the Director finds that the commenter’s proposed new subsection (e) is not necessary to ensuring effective oversight of procurement from the General Service Administration’s Federal Supply Schedules.

COMMENT: N.J.A.C. 5:34 Appendix C should be changed to address the changes made by P.L. 2006, c. 10, which expanded the Federal procurement programs that contracting units could use to meet their

purchasing needs. N.J.A.C. 5:34 Appendix C should be changed as follows:

APPENDIX C
N.J. DIVISION OF LOCAL GOVERNMENT SERVICES
SUBMISSION CHECKLIST

Use *[Of]* *of* The General Services Administration’s Federal Supply Schedules

N.J.S.A. 40A:11-[12b]**12.b* and N.J.S.A. 18A:18A-[10b]**10.b*

CONTRACTING UNIT’S NAME: _____ COUNTY _____

ITEM PURCHASED: _____ DATE: _____

The Local Public Contracts Law at N.J.S.A. 40A:11-12(b) and the Public School Contracts Law at N.J.S.A. 18A:18A-10(b) require information on this particular type of purchasing transactions to be filed with the Director of the Division of *[Local Government Services]* *Purchase and Property*. The rule, N.J.A.C. 5:34-9.7, codifies and supplements the requirements of the provisions of law. The rule requires documentation to be submitted to the Director within five working days of the award of any such contract *[for reprographic equipment or services, including digital copiers, listed in any of the Special Item Numbers of the Federal Supply Schedule 36, Part IV, or update thereto]* *under the General Services Administration’s Federal Supply Schedules or schedules from other federal procurement programs pursuant to N.J.S.A. 40A:11-12(b) or 18A:18A-10(b)*. The following documentation is submitted:

[DOCUMENTATION INCLUDED WITH SUBMISSION]

DOCUMENTATION TO BE INCLUDED WITH SUBMISSION TO THE DIRECTOR OF PURCHASE AND PROPERTY BY THE CONTRACTING UNIT.

1.-2. (No change.)

3. Documentation *[verifying]* *identifying* the price of the *[and description of the reprographic equipment of services, including digital copiers, under the Federal Supply Schedules;]* *goods or services under the General Services Administration’s Federal Supply Schedules or schedules from other federal procurement programs pursuant to N.J.S.A. 40A:11-12.b or 18A:18A-10.b*;

*[4. Written certification of the contracting unit’s purchasing agent verifying that the price of the reprographic equipment or services, including digital copiers, is no greater than the State contract price or, in the alternative, provide the rationale justifying payment of the higher Federal Supply Schedule price;

5. A copy of the vendor’s consent to the terms and conditions of the State contract governing in the event of a conflict with the vendor’s Federal contract; and

6. Copy of the adopted resolution approved by the membership of the governing body or, in the case of boards of education, copy of the motion made, carried and recorded in the written minutes of the meeting.]*

OTHER COMMENTS: Please use a separate sheet of paper and attach to Checklist.

FORM SUBMITTED BY:

(Please Print Name)

(Title)

(Telephone or E-mail)

(Date)

Please return this form with all the required documentation to the *[Bureau of Local Management Services at the Division of Local Government Services, at PO Box 803, Trenton, NJ 08625-0803]* *Division of Purchase and Property, Attn: Co-op Liaison, PO Box 230, Trenton, New Jersey 08625-0230*.

RESPONSE: The Director concurs with the commenter’s suggested revision in so far as it is necessary to conform to current statutory language as instituted by P.L. 2006, c. 10, which expands the scope of Federal procurement programs that contracting units could use to meet their purchasing needs. P.L. 2006, c. 10, also transfers the entity that must receive the documentation stated in N.J.A.C. 5:34-9.7 from the Division of Local Government Services to the Division of Purchase and Property in the Department of the Treasury.

COMMENT: N.J.A.C. 5:34-2.2(a) should be changed to eliminate a comma between the words "extraordinary" and "unspecifiable," thereby correcting a drafting error.

RESPONSE: The Director does not concur with the commenter's suggestion because the sentence is grammatically correct as is.

COMMENT: N.J.A.C. 5:34-2.3 should be changed in the interests of clarity to consolidate what has heretofore been subsection (b) into subsection (a), and recodify subsection (c) as a new subsection (b).

RESPONSE: The Director does not agree that commenter's proposed change is necessary to clarify the rule. Merging existing subsection (b) into existing subsection (a) is unnecessary because existing subsection (b) deals with contracts awarded under extraordinary unspecifiable services, which is not references in existing subsection (a).

COMMENT: N.J.A.C. 5:34-7.9(a) should be changed so as to state the heading "Notice of Cooperative Purchasing" in all capital letters.

RESPONSE: The Director does not concur with the commenter's suggested revision because the existing format of the heading conforms to the proper structure of the New Jersey Administrative Code. In addition, the rule states that the notice is to be similar in content, and the local government can format the published notice heading in all capital letters if it so chooses.

COMMENT: N.J.A.C. 5:34-7.10(a)1 should be amended for clarification purposes by inserting the phrase "REQUIREMENTS OF REGISTERED MEMBERS."

RESPONSE: The Director does not concur with the commenter's suggested revision because it is already present in the existing rule.

COMMENT: N.J.A.C. 5:34-7.14(a) and 7.17(a) should be changed to replace the statutory cite "N.J.A.C. 6:20" with "N.J.A.C. 6A:23A," so as to reflect repeals, new rules, and recodifications to rules by the New Jersey Department of Education.

RESPONSE: The Director concurs with the commenter's suggested revision, so as to conform with rule changes adopted by the State Department of Education. The provisions in N.J.A.C. 6:20 dealing with procurement by boards of education were recodified to N.J.A.C. 6A:23A, which pertains to fiscal accountability, efficiency, and budgeting procedures.

COMMENT: N.J.A.C. 5:34-7.24(a) should be amended so as to state the heading "Notice of County Cooperative Contract Purchasing System" in all capital letters.

RESPONSE: The Director does not concur with the commenter's suggested revision because the existing format of the heading conforms to the proper structure of the New Jersey Administrative Code. In addition, the rule states that the notice is to be similar in content, and the county can format the published notice heading in all capital letters if it so chooses.

COMMENT: N.J.A.C. 5:34-7.30(a)2 and 3 should be changed for clarity purposes as follows:

2. When a State contract includes different prices based on the quantity or volume purchased, the contracting unit shall [be based on] **base its** quotations [for] **on** identical [quantity] **quantities** or volume levels.

3. Terms and conditions of the State contract, as found in the Notice of Award related to length of contract, warranty, delivery and spotting terms, supply, costs, payment terms, installation and other related items (except [boding] **bonding** and indemnification provisions) are met by the vendor providing the quotation.

RESPONSE: The Director concurs with the commenter's suggested revisions in that they correct grammatical errors. This revision is technical in nature and does not alter the intent and purpose of the adopted rule.

COMMENT: N.J.A.C. 5:34-8.3(c), (d)2, and (g) should be changed for purposes of clarity to insert the letter "A" after the word "Appendix."

RESPONSE: The Director concurs with the commenter's suggested revisions, as N.J.A.C. 5:34 Appendix A contains the information referred to in those regulations.

COMMENT: The regulatory cross-references in N.J.A.C. 5:34-8.3(h) should be changed to reflect regulatory changes made by both the Division of Local Government Services and the Department of Education.

RESPONSE: The Director concurs with the commenter's suggested revisions only to the extent that the regulatory cite to N.J.A.C. 6A:23-7.1 has been superseded; however, the proper cite is N.J.A.C. 6A:23A-21.1 and not N.J.A.C. 6A:23A-21.9, as the commenter suggests. The Director does not concur that the regulatory cite to N.J.A.C. 5:30-11 should be changed, as this is the correct citation of the subchapter.

Nicola Reid, Legislative Liaison for the Southern New Jersey Chapter of the National Institute of Governmental Purchasing (SNJIGP), also provided comment on the notice of rules proposed for readoption with amendments, which are summarized as follows:

COMMENT: N.J.A.C. 5:34-2.2(e) should be changed to delete the phrase "Appropriate care shall be taken so that" before "such a firm is not authorized to participate in competitive bidding or competitive contracting if its earlier participation would give it an unfair advantage." This would conform the regulation's language to the statutory language in N.J.S.A. 18A:18A-1 et seq.

RESPONSE: The Director concurs with the commenter's suggested revisions because the phrase "appropriate care shall be taken so that" is unnecessary and inappropriate due to their being a prohibition on a firm's participation in competitive bidding or competitive contracting if the specialized knowledge gained by a firm previously retained under the extraordinary unspecifiable service exception to competitive bidding or competitive contracting would give it an unfair advantage due to the firm's study, survey, or preparation of specifications for a given system, function, or equipment.

COMMENT: N.J.A.C. 5:34-9.5(e) should be changed as follows:

The use of this provision does not permit [a] **such an** [duly] authorized designee to exercise the authority of a **duly appointed** qualified purchasing agent.

RESPONSE: The Director concurs with the commenter's suggested revision in that the current statute requires contracting agencies subject to the Local Public Contracts Law and Public School Contracts Law, respectively, to appoint an individual possessing the requisite qualifications to the position Qualified Purchasing Agent before the contracting agency can utilize an increased bid threshold.

COMMENT: The definition of "contracting unit" in N.J.A.C. 5:34-1.2 should reference "board of education" in place of "school district," and the reference to "school district" in the fourth paragraph of the definition of "administrator" at N.J.A.C. 5:34-4.1 should be likewise changed.

RESPONSE: The Director concurs with the commenter's suggested revision in that it better conforms the adopted rule to the language set out in the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. This revision is technical in nature and does not alter the intent and purpose of the adopted rule.

COMMENT: In N.J.A.C. 5:34-7.14(a) and 7.17(a), the statutory citation to "N.J.A.C. 6:20" should be changed to "N.J.A.C. 6A:23A."

RESPONSE: The Director concurs with the commenter's suggested revision so as to conform with rule changes adopted by the State Department of Education. The provisions in N.J.A.C. 6:20 dealing with procurement by boards of education were recodified to N.J.A.C. 6A:23A, which pertains to fiscal accountability, efficiency, and budgeting procedures.

COMMENT: John F. Donahue, Executive Director of the New Jersey Association of School Business Officials, stated that the rules should reference the bid threshold for public school districts. Districts with a qualified purchasing agent (QPA) have a \$36,000 bid threshold, while those that do not have a \$26,000, rather than \$17,000, bid threshold.

RESPONSE: The Director concurs with the commenter's suggested revision in that it better conforms the adopted rule to existing statute. Therefore, the Department will revise the language of N.J.A.C. 5:34 Appendix A to include a disclaimer that the current non-QPA bid threshold for boards of education differs pursuant to the Public School

Contracts Law. This revision is technical in nature and does not alter the intent and purpose of the adopted rule.

Federal Standards Statement

The regulation readopted at N.J.A.C. 5:34-1.1(d) provides that the rules set forth in this chapter are applicable to public housing authorities. The regulation also specifies that public housing authorities that operate subject to the authority of the U.S. Department of Housing and Urban Development shall adhere to the procurement procedures that reflect N.J.S.A. 40A:11-1 et seq. and related rules, provided that procurements conform to applicable Federal law and the standards required therein, and to 24 CFR 85.36(b), which requires that where both State and Federal law encompass the same procurement, the stricter or more limiting procedure that encourages competition shall be used. Except for this provision, the rules readopted with amendments are otherwise not subject to any Federal requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 5:34-1, 2, 3, 4, 6, 7, 8, and 9 and 5:34 Appendices A, B, and C.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

5:34-1.2 Definitions

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

“Aggregate” or “aggregation” means the sums expended or to be expended for the provision*[s]* or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the *[same contract year through a contract]* ***term of the contract*** awarded by a contracting agency.

“Contracting unit” means: any county; municipality; *[school district]* ***board of education***; or any board, commission, committee, authority*,* or agency, which is not a State board, commission, committee, authority*,* or agency, and which has administrative jurisdiction over any district project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

SUBCHAPTER 2. EXTRAORDINARY UNSPECIFIABLE SERVICES

5:34-2.2 General requirements limiting the use of the exception

(a)-(d) (No change.)

(e) No firm, having been previously ***contractually*** retained under this exception to study, survey*,* or prepare specifications for a given system, function*,* or equipment, may be selected without competitive bidding ***or competitive contracting*** to operate, implement*,* or provide any material or services on the basis of intimate or specialized knowledge acquired as a result thereof. *[Appropriate care shall be taken so that such]* ***Such*** a firm is not authorized to participate in competitive bidding or competitive contracting if its earlier participation would give it an unfair advantage.

SUBCHAPTER 4. ADMINISTRATION OF COMPETITIVE CONTRACTING PROCESS

5:34-4.1 Definitions

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

“Administrator” means:

1. (No change.)

2. In the case of a county, an individual appointed pursuant to N.J.S.A. 40A:9-42, 40:41A-42, 40:41A-47, or 40:41A-82; *[or]*

3. In the case of an authority*,* as defined in the Local Authorities Fiscal Control Law, P.L. 1983, *[c.313]* ***c. 313*** (N.J.S.A. 40:5A-1 et seq.), a *[full time]* ***full-time*** professional employee of the authority found by the governing body to possess the experience and skill necessary to properly administer the competitive contracting process*[.]*; ***or***

4. In the case of a *[school district]* ***board of education***, the administrator shall be defined pursuant to N.J.S.A. 18A:18A-4.3b)****4.3.b***.

“Authorized agent” means a ***duly-appointed*** qualified purchasing agent, legal counsel, or administrator of a contracting unit using competitive contracting in accordance with this subchapter.

SUBCHAPTER 7. COOPERATIVE PURCHASING

5:34-7.1 Applicability and authority

(a)-(c) (No change.)

(d) Copies of all cooperative purchasing forms are available from the Division of Local Government Services at PO Box 803, Trenton, New Jersey 08625-0803 or at the Division’s website at <http://www.nj.gov/dca/divisions/dlgs/programs/lplc.html>.

(e)-(f) (No change.)

5:34-7.2 Definitions

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

...

“Cooperative pricing system” means a purchasing system in which a local contracting unit advertises for bids and awards a master contract to a successful vendor for its own quantities and the estimated quantities submitted by the individual registered members.

...

5:34-7.14 Joint purchasing systems financial and contractual details, exclusive of boards of education

(a) The financial and contractual details set forth in this section shall apply only to contracting units subject to the requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.). Boards of education shall be subject to the financial and contractual details set forth in the Public School Contracts Law (N.J.S.A. 18A:18A-1.1 et seq.) and the administrative requirements contained in N.J.A.C. *[6:20]* ***6A:23A***.

(b)-(d) (No change.)

5:34-7.17 Accounting requirements for commodity resale systems

(a) The accounting requirements set forth in this section shall apply only to contracting units subject to the requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.). Boards of education shall be subject to the financial and contractual details set forth in the Public School Contracts Law (N.J.S.A. 18A:18A-1.1 et seq.) and the administrative requirements contained in N.J.A.C. *[6:20]* ***6A:23A***.

(b)-(c) (No change.)

5:34-7.25 County cooperative contract purchasing system county requirement for bids

(a) Each request for bids to be included in the county cooperative contract purchasing system by the county shall contain the following:

1. Language requiring uniform bid price(s) for both the county and ***[registered members]* ***those contracting units located within the county’s geographic boundaries*****. A provision with respect to the registered members shall be included substantially as follows:

...

2. A statement as to the procedure to be followed in the event that the lowest responsible bidder declines to extend prices to the ***[registered members]* ***contracting units located within the county’s geographic boundaries*****. The contract for the stated needs of the county will be

awarded to the lowest responsible bidder, and specifically not made available to contracting units within the county.

5:34-7.30 Application of N.J.S.A. 40A:11-5(4) or 18A:18A-5[e]**5.e*: purchases at 10 percent less than State contract price

(a) In applying the provisions of N.J.S.A. 40A:11-5(4) or 18A:18A-5[e]**5.e*, the purpose of purchasing identical materials, supplies*,* or equipment, in the same quantities, under a State contract without public bidding, the following conditions shall apply. For the purpose of this section, the term contract item shall mean the item being purchased that is the identical material, supply*,* or equipment.

1. (No change.)

2. When a State contract includes different prices based on the quantity or volume purchased, the contracting unit shall *[be based on]** *base its* quotations *[for]** *on* identical *[quantity]** *quantities* or volume levels.

3. Terms and conditions of the State contract, as found in the Notice of Award related to length of contract, warranty, delivery*,* and spotting terms, supply, costs, payment terms, installation*,* and other related items (except *[boding]** *bonding* and indemnification provisions) are met by the vendor providing the quotation.

4.-6. (No change.)

SUBCHAPTER 8. CONTRACTS SUBJECT TO PUBLIC BIDDING

5:34-8.3 When determinations of aggregation are found to be incorrect

(a)-(b) (No change.)

(c) If the remaining amount exceeds the bid threshold, public bidding for the remaining amount should take place as soon as practicable after the purchasing agent or contracting agent becomes aware of the change in needs. (see chapter Appendix *A*)

(d) Subject to the provisions of (d)1 and 2 below, the contracting agent or purchasing agent may seek authorization from the governing body or its designee to solicit quotations or publically bid the remaining amount. If the remaining amount is between 15 percent and 100 percent of the contracting unit's bid threshold, then:

1. (No change.)

2. If the governing body fails to designate an elected official, it retains the responsibility to make the determination by resolution. (See chapter Appendix *A*)

(e)-(f) (No change.)

(g) No additional goods or services shall be procured through the solicitation of quotations under (d) above until the resolution or written approval approving the purchase has been passed by the governing body or in the case of a designated elected official, other required form of written approval has been obtained. (see chapter Appendix *A*)

(h) If the actual need for goods or services that are publicly bid are found during the course of the contract to be greater than the amount bid, the change order procedures set forth in N.J.A.C. 5:30-11 or *[6A:23-7.1]** *6A:23A-21.9* shall be used, as appropriate.

(i) (No change.)

SUBCHAPTER 9. SPECIAL CIRCUMSTANCES

5:34-9.5 Miscellaneous circumstances

(a)-(d) (No change.)

(e) In a contracting unit subject to the Public School Contracts Law, a purchasing agent may appoint a "duly authorized designee" to act on behalf of and be responsible to the purchasing agent for such actions as related to purchasing. The purchasing agent shall recommend such designee to the *[Board of Education]** *board of education* for their consideration and approval. The designee cannot act on behalf of the purchasing agent until *[Board]** *board* approval is received. Under these circumstances, the purchasing agent shall continue to hold the authority, responsibility*,* and accountability for the purchasing activity of the contracting unit. The use of this provision does not permit a "duly

authorized designee" to exercise the authority of a *duly-appointed* qualified purchasing agent.

5:34-9.6 Purchasing at 10 percent less than a State cooperative contract price

(a) A contracting unit that procures materials, supplies*,* or equipment for at least 10 percent less than the State cooperative contract price, pursuant to N.J.S.A. 40A:11-5(4) *[or 18A:18A-5(e)]*, shall submit the following documentation to the Director *of the Division of Local Government Services* within five working days of the award of any such contract:

1.-6. (No change.)

7. A copy of the adopted resolution, approving or awarding the contract for the purchase of materials, supplies*,* or equipment, approved by two-thirds affirmative vote of the full membership of the governing body *[or, in the case of boards of education, a copy of the motion made approving or awarding the contract for the purchase of materials, supplies or equipment, carried and recorded in the written minutes of the meeting]*.

(b) (No change.)

(c) The Division has provided an optional submission checklist in chapter Appendix B, "Purchasing At 10 Percent Less Than The State Cooperative Contract Price N.J.S.A. 40A:11-5(4) *[and N.J.S.A. 18A:18A-5(e)]*." The checklist is intended to help contracting units comply with the provisions of this section. The checklist is available in the public contracts law section of the Division's website <http://www.nj.gov/dca/divisions/dlgs/>.

5:34-9.7 Use of the General Services Administration's Federal Supply Schedules

(a) A contracting unit statutorily subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., *[that procures reprographic equipment or services, including digital copiers, listed in any of the Special Item Numbers of the Federal Supply Schedule 36, Part IV, or update thereto, shall, pursuant to N.J.S.A. 40A:11-12(b) or 18A:18A-10(b)]** *may use without advertising for bids, or having rejected all bids obtained pursuant to N.J.S.A. 40A:11-13.2 or 18A:18A-22, as appropriate, the Federal Supply Schedules procurement programs, or update thereto. A contracting unit shall, pursuant to N.J.S.A. 40A:11-12.b or 18A:18A-10.b,* submit the following documentation to the Director of the Division of *[Local Government Services]** *Purchase and Property* within five working days of the award of any such contract:

1. (No change.)

2. A copy of the requisition or request for purchase order (if applicable); *and*

3. Documentation *[verifying]** *identifying* the price *[and description of the reprographic equipment or services, including digital copiers]** *of the goods or services*, under the Federal Supply Schedules*];* *or schedules from other Federal procurement programs.*

*[4. Written certification of the contracting unit's purchasing agent verifying that the price of the reprographic equipment or services, including digital copiers, is no greater than the State contract price or, in the alternative, provide the rationale justifying payment of the higher Federal Supply Schedule price;

5. A copy of the vendor's consent to the terms and conditions of the State contract governing in the event of a conflict with the vendor's Federal contract; and

6. A copy of the adopted resolution approving or awarding the contract for the purchase of materials, supplies or equipment approved by the membership of the governing body or, in the case of boards of education, copy of the motion, approving or awarding the contract for the purchase of materials, supplies or equipment made, carried and recorded in the written minutes of the meeting.]*

(b) (No change.)

(c) Contracting units statutorily authorized to contract under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. or the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. and procuring goods or services *[listed in any Special Item Numbers of the Federal Supply

Schedule 36, Part IV,]* ***under the General Services Administration's Federal Supply Schedules or schedules from other Federal procurement programs*** or update thereto, shall comply with administrative rule promulgated by the Department of the Treasury Purchase Bureau at N.J.A.C. 17:12-1A.5, Use of Federal Supply Schedules.

(d) The Division has provided an optional submission checklist in chapter Appendix C, "Use of the General Services Administration's Federal Supply Schedules N.J.S.A. 40A:11-12b and N.J.S.A. 18A:18A-10b." The checklist is intended to help contracting units comply with the provisions of this section. The checklist is available in the public contracts law section of the Division's website <http://www.nj.gov/dca/divisions/dlgs/>.

(Agency Note: The text of Appendices A, B, and C below appearing in boldface **thus** without asterisks is in the existing rule text as permanent boldface and not added as a change upon adoption.; those portions indicated in boldface with asterisks ***thus*** are intended to be added upon adoption, and are not a part of the existing rule text.)

APPENDIX A

LOCAL PUBLIC AND PUBLIC SCHOOL CONTRACTS LAWS

The examples that follow relate to N.J.A.C. 5:34-8.3, which identifies practices that should be used in instances where the initial estimates of goods or services needed during the current contract year were anticipated to be less than the bid threshold, or had been exempt from public bidding, but are later found to be incorrect. The rule sets forth practices to follow in determining if the remaining amount should be publicly bid, or if quotations should be solicited. The following situations repeat each rule and provide an interpretative model.

In the following situations, the remaining amount (as previously defined) means: the value of similar goods and services that are needed for the remainder of the current contract year, plus the value of similar goods and services needed in the subsequent contract year. ***In reviewing these examples, be mindful that pursuant to the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq., the bid threshold for boards of education without an appointed Qualified Purchasing Agent differs from the bid threshold for contracting agencies subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.***

SITUATION 1

N.J.A.C. 5:34-8.3(e): If the remaining amount exceeds the bid threshold, public bidding should take place as soon as possible.

Example: Assume that a contracting unit has a bid threshold of \$17,500 and is on a calendar year budget cycle. To date they have purchased \$15,000 worth of chain link fence through solicitation of quotations. In December, the Recreation Director advises the purchasing agent that one field and a parking area were excluded from the initial solicitation and that an additional \$10,000 worth of chain link fence needs to be purchased for the remainder of the year. The Recreation Director further advises that an additional \$21,000 worth of chain link fence is required for anticipated projects in the next year.

Solution: The purchasing agent or contracting agent would have to immediately initiate public bidding procedures to procure the remaining chain link fence, because the additional need this year, plus the need next year, exceeds the bid threshold.

SITUATION 2

N.J.A.C. 5:34-8.3(d): If the remaining amount is between 15 percent and 100 percent of the contracting unit's bid threshold, and the contracting unit has previously designated an elected official to determine whether public bidding or the solicitation of quotations is most advantageous to the contracting unit, then the purchasing agent or contracting agent may seek authorization from the governing body or its designee to solicit quotations or publicly bid the remaining amount.

Example: The following example relates to situations where similar goods or services will not be required in the subsequent contract year, and the contracting agent or purchasing agent has the option to either publicly bid the remaining amount, or seek authorization from the governing body or its designee to solicit quotations.

Assume that a contracting unit has a bid threshold of \$17,500 and is on a calendar year budget cycle. To date they have purchased \$15,000 worth of chain link fence through solicitation of quotations. In December, the Recreation Director informs the purchasing agent or contracting agent that one field was excluded from the initial solicitation, resulting in an additional current year purchase of \$10,000. The Recreation Director further advises that no purchases of chain link fence are required for the subsequent year.

Solution: The purchasing agent or contracting agent may seek authorization from the governing body or its designee to solicit quotations or publicly bid the remaining amount because it is between 15 percent and 100 percent of the contracting unit's bid threshold.

SITUATION 3

N.J.A.C. 5:34-8.3(d): If the remaining amount is between 15 percent and 100 percent of the contracting unit's bid threshold, and the contracting unit has previously designated an elected official to determine whether public bidding or the solicitation of quotations is most advantageous to the contracting unit, then the purchasing agent or contracting agent may seek authorization from the governing body or its designee to solicit quotations or publicly bid the remaining amount.

Example: The following example relates to situations where the remaining amount equals the value of similar goods or services to be purchased for the current contract year plus the value of similar goods or services for the subsequent contract year and is equal to between 15 percent and 100 percent of the contracting unit's bid threshold.

Assume that a contracting unit has a bid threshold of \$17,500 and is on a calendar year budget. To date, they have purchased \$15,000 worth of chain link fence through solicitation of quotations. In December, the Recreation Director informs the purchasing agent or contracting agent that one field was excluded from the initial solicitation resulting in an additional need for \$5,000 worth of chain link fence for the remainder of the current contract year. The Recreation Director advises further that \$10,000 worth of additional chain link fence needs to be purchased during the subsequent year. The additional \$15,000 of new chain link fence (\$5,000 for the remainder of the current contract year, and \$10,000 for the subsequent contract year) is less than the bid threshold of \$17,500.

Solution: Since the remaining amount is between 15 percent and 100 percent of the contracting unit's bid threshold, the purchasing agent or contracting agent may seek authorization from the governing body or its designee to solicit quotations or publicly bid the remaining amount.

SITUATION 4

N.J.A.C. 5:34-8.3(e): If the remaining amount is less than 15 percent of the contracting unit's bid threshold, the contracting agent or purchasing agent is authorized to solicit quotations for the purchase of the remaining amount.

Example: Assume that a contracting unit has a bid threshold of \$17,500 and is on a calendar year budget cycle. To date they have purchased \$15,000 worth of chain link fence through solicitation of quotations. In December, the Recreation Director informs the purchasing agent or contracting agent that the engineer miscalculated the area, and that an additional 40 linear feet of chain link fence needs to be purchased. The cost for the additional chain link fence is \$2,600.

Solution: The purchasing agent or contracting agent would be able to solicit quotations for the remaining chain link fence, because \$2,600 (the remaining amount of goods to be purchased) is less than 15 percent of the contracting unit's bid threshold.

APPENDIX B

N.J. DIVISION OF LOCAL GOVERNMENT SERVICES SUBMISSION CHECKLIST

Purchase At 10 Percent Less Than The State Cooperative Contract Price

N.J.S.A. 40A:11-5(4) *[and N.J.S.A. 18A:18A-5(e)]*

...
The Local Public Contracts Law at N.J.S.A. 40A:11-5(4) *[and the Public School Contracts Law at N.J.S.A. 18A:18A-5(e)]* require*s* information on this particular type of purchasing transaction(s) to be filed

with the Director of the Division of Local Government Services. The rule, N.J.A.C. 5:34-9.6, codifies and supplements the requirements of the provisions of law. The rule requires documentation to be submitted to the Director within five (5) working days of the award of any such contract. The following documentation is submitted:

- 7. Copy of the adopted resolution approved by two-thirds affirmative vote of the full membership of the governing body *or, in the case of boards of education, copy of the motion made, carried and recorded in the written minutes of the meeting]*. YES() NO()

APPENDIX C

N.J. DIVISION OF LOCAL GOVERNMENT SERVICES
SUBMISSION CHECKLIST

Use *Of* *of* The General Services Administration's Federal Supply Schedules

N.J.S.A. 40A:11-12(b) **12.b** and N.J.S.A. 18A:18A-10(b) **10.b**

CONTRACTING UNIT'S NAME: _____ COUNTY _____
ITEM PURCHASED: _____ DATE: _____

The Local Public Contracts Law at N.J.S.A. 40A:11-12(b) and the Public School Contracts Law at N.J.S.A. 18A:18A-10(b) require information on this particular type of purchasing transaction(s) to be filed with the Director of the Division of *Local Government Services* ***Purchase and Property***. The rule, N.J.A.C. 5:34-9.7, codifies and supplements the requirements of the provisions of law. The rule requires documentation to be submitted to the Director within five (5) working days of the award of any such contract *[for reprographic equipment or services, including digital copiers, listed in any of the Special Item Numbers of the Federal Supply Schedule 36, Part IV, or update thereto]* ***under the General Services Administration's Federal Supply Schedules or schedules from other Federal procurement programs pursuant to N.J.S.A. 40A:11-12(b) or 18A:18A-10(b)***. The following documentation is submitted:

DOCUMENTATION INCLUDED WITH SUBMISSION

- 1.-2. (No change.)
- 3. Documentation *[verifying]* ***identifying*** the price *[and description of the reprographic equipment of services, including digital copiers, under the Federal Supply Schedules;]* ***of goods or services under the General Services Administration's Federal Supply Schedules or schedules from other Federal procurement programs pursuant to N.J.S.A. 40A:11-12.b or 18A:18A-10.b.***
- *[4. Written certification of the contracting unit's purchasing agent verifying that the price of the reprographic equipment or services, including digital copiers, is no greater than the State contract price or, in the alternative, provide the rationale justifying payment of the higher Federal Supply Schedule price;
- 5. A copy of the vendor's consent to the terms and conditions of the State contract governing in the event of a conflict with the vendor's Federal contract; and
- 6. Copy of the adopted resolution approved by the membership of the governing body or, in the case of boards of education, copy of the motion made, carried and recorded in the written minutes of the meeting.]*

OTHER COMMENTS: Please use a separate sheet of paper and attach to Checklist.

FORM SUBMITTED BY:

(Please Print Name) (Title)

(Telephone or E-mail) (Date)

Please return this form with all the required documentation to the *[Bureau of Local Management Services at the Division of Local Government Services, at PO Box 803, Trenton, NJ 08625-0803]*

***Division of Purchase and Property, Attn: Co-op Liaison, PO Box 230, Trenton, New Jersey 08625-0230*.**

(a)

**DIVISION OF LOCAL GOVERNMENT SERVICES
Qualified Purchasing Agents
Readoption with Amendments of Special Adopted
Repeals and New Rules: N.J.A.C. 5:34-5**

Proposed: May 6, 2013, at 45 N.J.R. 984(a).
Adopted: September 12, 2013, by Thomas H. Neff, Director, Division of Local Government Services.
Filed: September 13, 2013, as R.2013 d.124, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 40A:11-9.
Effective Dates: September 13, 2013, Readoption;
October 7, 2013, Amendments.
Expiration Date: September 13, 2020.

Summary of Public Comments and Agency Responses:

COMMENT: Mr. Joseph Valenti, of Joseph A. Valenti, LLC, stated that N.J.A.C. 5:34-5.5(a) should be changed for clarification purposes. Specifically, the phrase "pursuant to N.J.S.A. 40A:11-9.a" should be inserted into the first sentence of the section in order to clarify that N.J.S.A. 40A:11-9.a sets forth how a contracting unit can appoint a qualified purchasing agent.

RESPONSE: The commenter's point is valid as to the need for textual clarification; however, the Director finds that this clarification is best achieved by eliminating the phrase "pursuant to N.J.S.A. 40A:11-9.g" rather than adding a cite to N.J.S.A. 40A:11-9.a alongside it. Deleting the above-referenced phrase does not affect the substance of the rule as it tracks the statutory language of N.J.S.A. 40A:11-9.g.

Federal Standards Statement

No Federal standards analysis is required because the readopted special adopted repeals and new rules with amendments are not being adopted in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Full text of the readopted special adopted new rules with amendments follows (deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 5. QUALIFIED PURCHASING AGENTS

5:34-5.1 Qualified purchasing agent

(a) An individual shall be considered a qualified purchasing agent pursuant to N.J.S.A. 40A:11-9.b to exercise the supplemental authority as set forth in N.J.S.A. 40A:11-3 and 40A:11-4.3 or N.J.S.A. 18A:18A-3 and 18A:18A-4.3 upon meeting the criteria relevant to the individual as set forth in N.J.S.A. 40A:11-9.

(b) To meet the criteria of required training courses set forth in N.J.S.A. 40A:11-9.b(5), an applicant shall successfully complete the following courses, provided by the Center for Government Services at Rutgers, the State University, by the Division of Local Government Services, or, with the approval of the director, an alternative State University or county college:

- 1. Principles of Public Purchasing I;
- 2. Principles of Public Purchasing II;
- 3. Principles of Public Purchasing III;
- 4. Municipal Finance Administration, or either of the following courses: Municipal Finance Administration for Municipal Clerks, or Municipal Finance Administration for Purchasing Agents; and
- 5. For individuals applying for a qualified purchasing agent certificate after June 30, 2014, Environmentally Preferable Procurement.