



State of New Jersey

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KEVIN D. WALSH
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April 08, 2025

Via Electronic and Certified Mail RRR

Timothy Havlusch, Business Administrator / Board Secretary
Educational Services Commission of New Jersey
1690 Stelton Rd,
Piscataway, NJ 08854
[REDACTED]

Re: OSC File No. 25-535, ESCNJ, Post-Award, Custodial Services; OSC File No. 25-536, ESCNJ, Post-Award, Modular Buildings: Purchase, Repair, Removal, Rental and Installation

Dear Mr. Havlusch:

As you are aware, the Public Contracting Oversight Division of the Office of the State Comptroller (OSC) is currently reviewing multiple pre-advertisement and post-award submissions from Educational Services Commission of New Jersey (ESCNJ), pursuant to OSC's procurement notification statute, N.J.S.A. 52:15C-10. OSC's procurement notification statute requires contracting units to submit procurements valued at or above \$12.5 million to OSC prior to solicitation. That statute additionally requires contracting units to submit procurements valued at \$2.5 million or more to OSC within 20 days of contract award.

On January 22, 2025, ESCNJ submitted the above-captioned contract extensions, each valued above \$12.5 million to OSC after the extensions were awarded and executed, without pre-advertisement notice to OSC, in violation of N.J.S.A. 52:15C-10(b). This continues ESCNJ's unlawful practices identified in OSC's August 1, 2024 audit report, which found, among other things, that ESCNJ had improperly awarded seven contracts, with a combined value of approximately \$14.6 million, without seeking competition, and failed to provide post-award notification to OSC of procurements valued at \$2.5 million or more as required N.J.S.A. 52:15C-10(a). The audit further found deficiencies in

Timothy Havlusch, Business Administrator / Board Secretary
Educational Services Commission of New Jersey
Page 2 of 3

ESCNJ's compliance with New Jersey's Department of Community Affairs, Division of Local Government Services' Cooperative Purchasing Rules, N.J.A.C. 5:34-7.¹

On October 3, 2024, and October 15, 2024, ESCNJ submitted two procurements to OSC, one for Custodial Supplies, and one for Modular Buildings, respectively, for pre-advertisement review. ESCNJ had contracts in place at the time for both procurements that were set to expire on January 21, 2025 (the Procurements). On January 22, 2025, ESCNJ provided OSC with post-award notifications pursuant to N.J.S.A. 52:15C-10(a), indicating to OSC that it had extended both of the expiring contracts underlying the Procurements. Since submission of the Procurements, OSC has provided guidance to ESCNJ to bring the Procurements into compliance with applicable laws, rules and regulations.

At ESCNJ's request, on January 7, 2025, OSC and the Division of Local Government Services ("DLGS") met with ESCNJ's Business Administrator and legal counsel, regarding OSC's compliance concerns. OSC noted that the current iteration of these contracts under OSC review would expire soon, and ESCNJ acknowledged that it would be unlikely to award new contracts before the current contracts expired. ESCNJ indicated that it would seek to extend its current contracts pursuant to a provision of Public School Contracts Law ("PSCL") which states that "a contract may be extended by mutual agreement of the parties to the contract when a board of education has commenced rebidding prior to the time the contract expires or when the awarding of a contract is pending at the time the contract expires." N.J.S.A. 18A:18A-42. ESCNJ argued this was an appropriate mechanism under PSCL, despite the fact that neither of the Procurements had commenced rebidding, nor was either pending award at that time. During this meeting, OSC repeatedly reminded ESCNJ that OSC's notice requirements include contract extensions. OSC sent emails to ESCNJ requesting ESCNJ's proposed actions with regard to the expiring contract, but received no response.

Thereafter, as indicated above, on January 22, 2025, ESCNJ provided OSC with post-award notification, pursuant to N.J.S.A. 52:15C-10(a), indicating that it had extended both of the contracts at issue. According to the OSC notice forms submitted by ESCNJ, the Custodial Supplies contract has an estimated value of \$14 million, and the Modular Buildings contract an estimated value of \$53 million. Neither submission cites statutory authority for the proposed contract extension, states the contract term, or explains the valuation method.

Pursuant to N.J.S.A. 52:15C-10(b), every public entity in New Jersey, including educational service commissions such as ESCNJ, are required to notify OSC of contracts for which the good-faith estimated value of the proposed contract meets or exceeds

¹ Since the release of OSC's audit, ESCNJ has submitted many procurements under OSC's notice statute, N.J.S.A. 52:15C-10. However, many of the submissions, based upon ESCNJ's estimated and awarded values, are in violation of the post-award submission requirements established by N.J.S.A. 52:15C-10(a), and the pre-advertisement submission requirements established by N.J.S.A. 52:15C-10(b).

Timothy Havlusch, Business Administrator / Board Secretary
Educational Services Commission of New Jersey
Page 3 of 3

\$12.5 million at the earliest time practicable, but no later than the commencement of any procurement process. That requirement includes contract renewals and extensions valued at \$12.5 million or more. With regard to ESCNJ's post-award submissions for the above-referenced contract extensions, despite knowledge of the submission requirements and the applicability of the pre-advertisement notice requirements to these contract extensions, ESCNJ violated N.J.S.A. 52:15C-10(b) when it failed to submit these contract extensions to OSC prior to awarding the extensions.

In light of the above, OSC hereby directs ESCNJ to notify its Board Members, at its next regular public meeting, of this letter and the violations discussed herein, and to thereafter submit to OSC the meeting minutes at which this notification was made. Additionally, on a going forward basis, ESCNJ must ensure its procurement submissions are made to OSC in a timely manner in accordance with applicable law, and are valued and submitted in accordance with OSC's notice statute and all applicable regulations. To that end, OSC directs ESCNJ to provide OSC with its written procurement policies and procedures for valuing procurements and submitting same to OSC, in accordance with applicable laws, within in 10 business days of the date of this letter.

Should you have any questions, do not hesitate to contact me. Thank you for your anticipated cooperation.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER

By: /s./David Sullivan
David Sullivan
Staff Attorney, Public Contracting Oversight Division

cc: Christopher Jensen, Director, OSC Audit Division, [REDACTED]
Lauren Palladino, Purchasing Administrator, ESCNJ, [REDACTED]
Hope Blackburn, Board Counsel, ESCNJ, [REDACTED]