

N.J.A.C. 10:99

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 11, June 4, 2018

***New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 99.
REHABILITATION FACILITIES SET-ASIDE ACT RULES***

Title 10, Chapter 99 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:6-32.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective: November 24, 2014.

See: 47 N.J.R. 117(a).

CHAPTER HISTORICAL NOTE:

Chapter 99, State Use Law for Rehabilitation Facilities, was adopted as R.1971 d.15A, effective January 28, 1971. See: 2 N.J.R. 100(b), 3 N.J.R. 41(a).

Chapter 99, State Use Law for Rehabilitation Facilities, was repealed by R.1980 d.178, effective April 22, 1980. See: 12 N.J.R. 322(a).

Chapter 99, State Use Law for Rehabilitation Facilities, was adopted as R.1985 d.55, effective February 19, 1985. See: 16 N.J.R. 2338(a), 17 N.J.R. 453(a).

Pursuant to Executive Order No. 66(1978), Chapter 99, State Use Law for Rehabilitation Facilities, expired on February 19, 1990.

Chapter 99, State Use Law for Rehabilitation Facilities, was adopted as R.1990 d.295, effective June 4, 1990. See: 22 N.J.R. 766(a), 22 N.J.R. 1724(b).

Pursuant to Executive Order No. 66(1978), Chapter 99, State Use Law for Rehabilitation Facilities, expired on June 4, 1995.

Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, was adopted as R.1997 d.267, effective July 7, 1997. See: 29 N.J.R. 863(a), 29 N.J.R. 2832(a).

Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, was readopted as R.2002 d.242, effective July 3, 2002. See: 34 N.J.R. 1402(b), 34 N.J.R. 2840(b).

Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, was readopted as R.2008 d.29, effective December 24, 2007. See: 39 N.J.R. 3270(b), 40 N.J.R. 725(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, was scheduled to expire on December 24, 2014. See: 43 N.J.R. 1203(a).

Chapter 99, Rehabilitation Facilities Set-Aside Act Rules, was readopted, effective November 24, 2014. See: Source and Effective Date.

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 99. REHABILITATION FACILITIES SET-ASIDE ACT RULES > SUBCHAPTER 1. GENERAL PROVISIONS

§ 10:99-1.1 Purpose

The purpose of these rules is to further the policy of the State to encourage and assist people with severe disabilities to achieve maximum personal independence through productive employment by assuring a continuous market for commodities and services provided by them, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on public assistance and the need for costly institutionalization.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "people with severe disabilities" for "severely disabled individuals" and deleted "manufactured" following "commodities".

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§ 10:99-1.2 Scope

This chapter establishes a mechanism through which people with severe disabilities throughout the State of New Jersey are encouraged and enabled to become productively employed through participation in community rehabilitation programs. The rules ensure market continuity by placing commodity items and services on set-aside contracts for purchase by State agencies, municipalities, school districts, counties, quasi-State agencies, county and State colleges, volunteer fire departments, volunteer first aid and rescue squads, and independent institutions of higher learning.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-1.3 Definitions

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

"Blind or legally blind" means central visual acuity that does not exceed 20/200 in the better eye with best correction or field of vision that are so limited that the widest diameter of visual field subtends an angle no greater than 20 degrees.

"Central Nonprofit Agency (CNA)" means an organization incorporated under the laws of New Jersey, operated in the interest of the blind and visually impaired or other persons with severe disabilities and designated by the Commissioner to facilitate the distribution (by direct allocation, or other means) of orders of the State and local government for commodities and services on the procurement list among qualified CRPs serving the blind and visually impaired or other persons with severe disabilities.

"Commissioner" means the Commissioner of the Department of Human Services.

"Commodities and Services Council (CSC)" means the Commodities and Services Council for the Blind, Visually Impaired and other persons with severe disabilities as constituted in P.L. 1981, c.488, § 3.

"Community rehabilitation program (CRP)" means a rehabilitation program located in this State which qualifies as a charitable organization or institution under the provisions of section 501(c)(3) of the Internal Revenue Code and is conducted on a nonprofit basis for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency, illness or injury and of providing these individuals with remunerative employment or other occupational rehabilitative activity of an educational or therapeutic nature as defined in section 525.1 et seq. of the regulations adopted pursuant to the Federal Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq. and related codes, and which is engaged in the production of commodities or the provision of services in connection with which not less than 75 percent of the total amount of direct labor is performed in the preparation of the commodity for sale or in the execution of the services rendered by blind or other persons with severe disabilities excluding any hours of supervision, administration, inspection or shipping.

"Fiscal year" means the 12 month period beginning on July 1 of each year.

"Other persons with severe disabilities" means persons, other than those who are blind and visually impaired, who have a mental or physical impairment that has severely impeded their ability to seek, enter or maintain gainful employment. Some specific categories of persons with severe disabilities as defined above, include, but are not limited to, those disabled by the following conditions:

- 1.Spinal cord injury;
- 2.Hearing impaired;
- 3.Muscular dystrophy;
- 4.Multiple sclerosis;
- 5.Developmental disabilities or other neurological disorders;
- 6.Severe orthopedic handicaps;
- 7.Multiple disabilities;
- 8.Severe personality or behavioral disorders, including psychosis and neurosis;
- 9.Severe pulmonary disease; and
- 10.Severe cardiac disorders.

"Program" means the CNA, regulated by the New Jersey CSC in accordance with this chapter.

"Purchasing agency" means any State agency or municipality, school district, county, quasi-State agency, county and State college, volunteer fire department, volunteer first aid and rescue squad, public authority, commission, and independent institutions of higher learning as cited in the Cooperative Purchase Program statute (N.J.S.A. 52:25-16.1 and 40A:11-12) that places orders for the procurement of any commodity or service on the procurement list.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 N.J.R. 1402(b), 34 N.J.R. 2840(b).

Rewrote "Central Nonprofit Agency (CNA)", "Commodities and Services Council", "Other severely disabled persons", "Program" and "Purchasing agency"; added "Community rehabilitation program (CRP)"; and deleted "Rehabilitation facility".

Amended by R.2008 d.29, effective January 22, 2008.

See: 39 N.J.R. 3270(b), 40 N.J.R. 725(a).

In definition "Other persons with severe disabilities", inserted commas following "persons" and "impaired" and substituted "have a mental or physical impairment that has severely impeded their ability to seek, enter or maintain gainful employment" for "are so severely incapacitated by

any physical or mental disability that they cannot engage in normal competitive employment, without support, because of such disability".

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§ 10:99-2.1 Membership

(a) The CSC shall consist of the Director of the Division of Vocational Rehabilitation Services; the Director of the Division of Purchase and Property; the Chief of the Bureau of State Use Industries; the Assistant Commissioner for the Division of Developmental Disabilities; the Director of the Division of Disability Services, the Executive Director of the Commission for the Blind and Visually Impaired; the Chairperson of ACCSESNJ/CNA SERVICES; or their designees; and three citizens at-large members, at least one of whom shall be a blind person in accordance with the definition provided in N.J.A.C. 10:99-1.3 and at least one of whom shall represent the private business sector. The at-large members shall be appointed by the Governor, with the advice and consent of the Senate, for terms of three years.

(b) The members of the CSC shall organize annually by the selection of one of their members to serve as the chairperson. The at-large members shall serve without compensation but shall be reimbursed by the Department of Human Services for necessary expenses incurred in the performance of their duties.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 N.J.R. 1402(b), 34 N.J.R. 2840(b).

Substituted "CSC" for "Council" throughout; in (a), substituted "Chairperson" for "President" following "Visually impaired; the", "ACCSESNJ/CNA SERVICES;" for "the New Jersey Association of Rehabilitation Facilities" preceding "or their designees" and inserted "in accordance with the definition provided in N.J.A.C. 10:99-1.3" following "blind person".

Amended by R.2008 d.29, effective January 22, 2008.

See: 39 N.J.R. 3270(b), 40 N.J.R. 725(a).

In (a), substituted "the Assistant Commissioner for" for "the Director of the Division of Development for Small Business and Women and Minority Businesses; the Director of" and

deleted ", except that, of the first at-large members appointed, one shall be appointed for a term of three years, one for a term of two years and one for a term of one year" from the end.

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§ 10:99-2.2 Duties of the CSC

- (a) The CSC shall recommend to the Commissioner an organization for designation as the CNA for the purposes of this program.
- (b) The CSC shall develop, through the CNA, a list of commodities and services which shall be set aside for purchase by State agencies from CNA-approved CRPs and shall establish a contract selling price based on fair market price (FMP) (N.J.A.C. 10:99-2.4 and 5.4) for those commodities and services.
- (c) The CSC shall establish allowable fees including the administrative/management fee for the CNA which shall be added to the FMP (N.J.A.C. 10:99-3.5).
- (d) The CSC shall address grievances which may arise between the CNA and a CRP as the result of the relationship defined by the Memorandum of Understanding (N.J.A.C. 10:99-5.10).
- (e) The CSC shall monitor the activities of the CNA in accordance with the standards contained in this chapter, both in terms of its relations with participating CRPs and with customer agencies. In cases of documented non-compliance on part of the CNA, the CSC shall recommend appropriate corrective action or rescinding of the CNA in accordance with N.J.A.C. 10:99-4.5, 4.6 and 5.7.
- (f) The CSC may, by majority action, release the Bureau of State Use Industries from a waiver issued by the Bureau of State Use Industries in accordance with N.J.A.C. 10:99-3.2.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-2.3 Sales catalog

(a)The CNA shall issue or make available to each government purchasing agency a sales catalog or listing, which shall include CSC approved commodities and services which shall be procured from the CNA as follows:

- 1.For commodities, the sales catalog shall include the item description, general specifications, identification, price, shipping, ordering, and other pertinent information; and
- 2.For services, the sales catalog shall identify the type of service to be provided and other relevant information.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

In (a), inserted "or make available" following "issue", "government" following "each", "or listing" following "catalog", "CSC approved" preceding "commodities" in the introductory paragraph and "general" following "description," and "shipping, ordering," following "price" in 1.

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§ 10:99-2.4 Contract selling price

(a)The contract sales price of a commodity item or service approved by CSC shall equal fair market price (FMP) plus the administrative/management fee payable to CNA and any approved payment to the CRP in excess of the FMP.

(b)Fair market price (FMP) shall be developed and determined in accordance with the following procedures:

- 1.**CNA shall solicit proposals from CRPs to place commodity items or services on the State set-aside contract. CNA shall review proposals received for feasibility and the CRPs capability to perform.
- 2.**In the event CNA approves a CRPs proposal, CNA shall solicit the Division of Purchase and Property's (Division) approval of the proposal. Such CNA solicitation shall include the following: documentation establishing that no State contract exists with respect to the commodity item or service; documentation evidencing the need by State agencies for the commodity item or service; examples of such documentation may include prior contract usage or a request from the using agency; CNA certification of the ability of the CRP to successfully provide the commodity item or service; and documentation justifying the FMP proposed for the commodity or service. Within two to three weeks of the CNA solicitation, the Division will present its request for any additional, relevant, information necessary for timely review of the solicitation.
- 3.**FMP means a recent competitive bid or negotiated price at which a vendor of the same or similar commodity item or service, who is regularly engaged in the business of selling such commodity item or service, offers to sell such commodity items or service under similar terms in the same market. Included in FMP are the CRPs costs of production (overhead, labor and materials) and distribution. The FMP shall be the basis for establishing a CRP approved price.
- 4.**In its review of the CRP approved price proposed for a commodity item or service, the Division may consider, if applicable, pricing for the same or similar commodity or service received in the most recent competitive solicitation for the same or similar commodity item or service, offered under similar conditions. The Division may also

research, for comparison purposes, private sector pricing for the same or similar commodity item or service, offered under similar conditions. The Division's FMP analysis shall consider product specifications, quality requirements, current market condition, lead-time, production volumes and anticipated order quantities. The Division shall conduct all studies and analysis within two to three weeks of final document submission by CNA and notify CNA of its decision.

5. Upon the Division's response to CNA's request, CNA shall submit the proposal to CSC for consideration. Such submission shall include evidence of the Division's position with respect to the proposal.

(c) The proposal submitted by CNA to CSC for consideration may include a proposed payment to the CRP in excess of FMP, as determined by the CNA, for the CRP to provide the commodity item or service. In no event shall a proposed payment to the CRP in excess of FMP exceed seven percent of FMP.

(d) In considering a proposal to place a commodity item or service on State set-aside contract, CSC shall consider:

1. The CNA's recommendation;
2. The Division's position;
3. The FMP;
4. The CNA administrative/management fee; and
5. Any proposed payment to the CRP in excess of FMP.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-2.5 Annual report

The CSC shall prepare and submit to the Commissioner an annual report prepared by the CNA on the activities conducted under N.J.S.A. 30:6-23 et seq. (hereinafter referred to as "the Act") including significant accomplishments and developments and such other details as the CNA considers appropriate or the CSC may request within 90 days following the close of the CNA's fiscal year.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-3.1 Designation of the CNA

A CNA shall be designated by the Commissioner to represent the CRPs for the blind and visually impaired as well as CRPs for other people with severe disabilities.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "CRPs" for "rehabilitation facilities" and "people with severe disabilities" for "severely disabled individuals".

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§ 10:99-3.2 Duties and responsibilities of the CNA

(a)The CNA shall:

- 1.**Act as a liaison in the representation of CRPs to the CSC and other State, municipal, county agencies, public authorities, commissions, and offices affected by the Act;
- 2.**Evaluate the qualifications and capabilities of the CRPs in accordance with the requirements of this chapter and provide the CSC with the data concerning these CRPs, their status as a qualified program, and their manufacturing and service capabilities;
- 3.**Recommend to the CSC, with justification, including recommended prices, commodities or services for procurement from its qualified CRPs, as specified in N.J.A.C. 10:99-3.3;
- 4.**Meet with the Chief of the Bureau of State Use Industries to secure a formal written waiver, including any restrictions thereof, for a commodity or services proposed for set-asides, to insure there will be no duplication or competition;
- 5.**Distribute orders from State and other purchasing agencies among its qualified CRPs, in accordance with N.J.A.C. 10:99-3.4;
- 6.**Maintain the following records and data on its certified CRPs:
 - i.**The articles of incorporation;
 - ii.**A copy of the by-laws;
 - iii.**A copy of the Section 501(c)(3) Internal Revenue Service certificate;
 - iv.**Evidence that the facility meets the criteria for nonprofit status under the applicable provisions of New Jersey law and is registered and in good standing as a charitable organization with the Secretary of State; and

v.A copy of current certificate(s) issued by the United States Department of Labor authorizing wage payments under section 14(c) of the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

7.Monitor participating CRPs to insure contract compliance in production of a commodity or performance of a service;

8.Monitor and inspect the activities of participating CRPs to ensure compliance with N.J.S.A. 30:6-23 et seq. and this chapter;

9.As market conditions change, recommend price changes, with appropriate justification from the CRP, for approved commodities or services;

10.Enter into contracts with State and other procuring entities for the furnishing of commodities or the provision of services provided by the CRPs; and

11.Provide an appeal process to address disputes or grievances which may occur between the participating CRPs and the CNA (N.J.A.C. 10:99-4.5).

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-3.3 Development of commodities or services for set-aside

(a) Items to be considered for set-aside contract may originate from a certified CRP, the CNA or a State agency:

1. When originating from a CRP, the CRP proposing the commodity or service to the CNA shall have priority for set-aside. The CRP shall submit documentation requesting the commodity or service be placed on set-aside within nine months or lose its development priority for that commodity or service for twenty-four months (N.J.A.C. 10:99-4.1);

2. CRPs interested in producing the commodity or service must provide to the CNA a cost breakdown, price list, business plan, including market research and functional descriptions of facilities and equipment used, and any other pertinent information relating to the specification, within 60 days after receipt of notification by the CNA of its intent to propose a commodity or service for addition to the sales catalog. The Bureau of State Use Industries shall have two to three weeks to notify the CNA (in writing) of their intent to exercise their priority on the proposed commodity or service, once formally notified by the CNA. Failure by the Bureau to provide notification of intent will serve as the Bureau's indication not to exercise priority for the product or service.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-3.4 Distribution of orders

When the CSC has approved two or more CRPs to produce a specific commodity or perform a particular service, the CNA shall distribute orders among those CRPs based on an evaluation of capabilities, capacities, geographic concerns, price, performance, and customer preference.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-3.5 Fees

The administrative/management fees payable to the CNA shall be eight percent of the FMP which shall be added to the CRPs approved price and included in the total contract selling price as approved by the CSC.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

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§ 10:99-4.1 Procedures for qualification of community rehabilitation programs

(a)A CRP seeking eligibility to participate in the program shall submit to the CSC, through the CNA, the following documents, transmitted by a letter signed by an officer of the corporation:

- 1.A legible copy of the articles of incorporation showing the date of filing and the signature of an appropriate State official;
- 2.A copy of the by-laws certified by an officer of the corporation;
- 3.A copy of the Internal Revenue Service certificate indicating that the corporation has been accepted as a nonprofit agency for taxation purposes under the provisions of Section 501(c) 3 of the Internal Revenue Code;
- 4.Evidence that the CRP meets the criteria for determining nonprofit status under the applicable provisions of New Jersey law and is registered and in good standing as a charitable organization with the Secretary of State;
- 5.A copy of current certificate(s) issued by United States Department of Labor authorizing wage payments under section 14(c) of the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.; and
- 6.Evidence of a business/marketing plan demonstrating the CRP's ability to provide the service or commodity.

(b)After CNA review and approval of submitted documentation, the CSC will review the documents submitted and, if they are approved by the CSC in accordance with (a) above, the CRP shall be considered eligible and shall be notified through the CNA of the CRP's eligibility to participate in the program.

(c)At the time the CNA recommends to the CSC the addition of a commodity or service to the sales catalog, the CNA shall also submit to the CSC a signed copy of the appropriate initial certification for the CRP to be authorized to provide the commodity or service. If the proposed commodity or service is an expansion or minor variation of an existing commodity or service, then simple notification of this change shall be provided to the CSC.

(d) To maintain its qualifications, each CRP authorized to produce a commodity or provide a service shall complete an annual certification of the documents specified in (a) above and shall submit a signed copy to the CSC, through the CNA, within six weeks following the close of the fiscal year.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

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§ 10:99-4.2 Responsibilities of CRPs

(a) Each CRP participating in the program shall:

1. Furnish commodities or services in accordance with the purchase order specifications;
2. Make records pertaining to the contract available for inspection by the CNA during normal business hours;
3. Maintain records and issue reports to the CNA of direct labor hours performed on the contract by each worker;
4. Comply with applicable Federal and State occupational health and safety standards without discrimination; and
5. Maintain a file on each program participant which includes reports of pre-admission evaluation and annual reevaluations of the individual's capability for competitive employment.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

In (a), substituted "CRP" for "facility" in the introductory paragraph, rewrote 3 and inserted "competitive" preceding "employment" in 5.

N.J.A.C. 10:99-4.3

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§ 10:99-4.3 Purchase of materials

CRPs shall exercise sound procurement principles in the purchase of individual components used in the commodities and services purchased by the State. These principles shall give consideration to price, quality, availability and vendor qualification. CRPs shall seek three competitive bids for the purchase of individual components used in the commodities and services purchased by the State. The CNA shall examine the specifications, volume, frequency of order, transportation and storage requirements, user agency and information on the current supplier.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the first sentence.

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§ 10:99-4.4 Production of commodities

In the production or processing of commodities, a CRP shall make a value added contribution to the commodity by the reforming of raw materials, package modification, assembly of components or a combination thereof.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "CRP" for "facility" and inserted "or processing" following "production".

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§ 10:99-4.5 Cancellation of contract

(a)A contract executed with a CRP may be canceled by the CNA, with approval by the CSC, for non-compliance with the terms of the contract, such as failure to meet State specifications, quality assurance standards, or quantity and delivery requirements. Prior to any contract cancellation, the CRP shall be informed in writing of the problem and shall be given a reasonable period (not to exceed 90 days) and opportunity to correct the non-compliance.

(b)If a contract with a CRP has been canceled in accordance with (a) above, the CRP may subsequently present evidence to the CSC, through the CNA, that the CRP is capable of meeting the terms of the contract. The CNA shall document the readiness or capability of the CRP to resume production or services according to the terms of the specific contract in existence prior to resumption of the contract and shall present same to the CSC for re-establishment of the set-aside.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "CRP" for "facility" and "CSC" for "Council" throughout; in (a), inserted "executed" following "contract" and rewrote the second sentence; in (b), substituted "re-establishment of the set-aside" for "re-set-aside" in the second sentence.

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§ 10:99-4.6 Revocation of approval of a CRP

If the CNA recommends the denial of approved status to a CRP or the revocation or suspension of such status for failure to comply with these rules, the matter shall be referred to the CSC. The CSC will attempt to resolve the matter. If satisfactory resolution of the matter is not accomplished, the matter shall be referred by the CSC for a fair hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "CRP" for "facility" and "CSC" for "Council" throughout, inserted "fair" preceding "hearing" and deleted "of Practice" preceding "N.J.A.C. 1".

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§ 10:99-5.1 Purchasing agencies

All State purchasing agencies shall purchase approved set-aside commodities and services on a sole source basis from the CNA. Moreover, agencies are prohibited from buying similar commodities and/or services from alternate sources unless granted a formal waiver from the CNA. All municipality, school district, county, quasi-State agency, county and State college, volunteer fire department, volunteer first aid and rescue squad, public authority, commission and independent institution of higher learning purchasing agencies as cited in the Cooperative Purchase Program statute (N.J.S.A. 52:16-1 and N.J.S.A. 40A:11-12) are strongly encouraged to purchase set-aside items on a sole source basis from the CNA.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-5.2 Purchase orders

(a)"Purchase orders" means the authorizations from State, other government entities, municipality, school district, county, quasi-State agencies, county and State colleges, volunteer fire departments, volunteer first aid and rescue squads, and independent institutions of higher learning to the CNA to produce or provide definite quantities of commodities or perform specific services at the approved selling price.

(b)For commodities, purchase orders shall contain name, commodity number, catalog item, latest specification, quantity, unit price, place and time of delivery.

(c)For services, purchase orders shall contain type and location of service required, latest specification, work to be performed, estimated volume and time for completion.

(d)Purchase orders shall provide three to four weeks for production of the commodity or delivery of the service, in accordance with (f) below.

(e)When a purchase order provides a delivery schedule which cannot be met, the CNA shall request a revision which the purchasing agency should grant, if feasible. If the purchasing agency determines that the revision is not feasible, a purchase exception by the CNA authorizing procurement from commercial sources, in accordance with N.J.A.C. 10:99-5.3, shall be allowed or permitted.

(f)The CNA shall keep the purchasing agency informed of any changes in the lead time experienced by its CRP in order to keep to a minimum requests for extensions once an order is placed by the purchasing agency. Where, due to unusual conditions, an order does not provide sufficient lead-times, the CNA may request an extension of the delivery or completion date which should be granted, if feasible. If extension of delivery or completion date is not feasible, the purchasing agency shall notify the CNA and request the CNA to issue a purchase exception authorizing procurement from commercial sources.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote (a); in (b), inserted "catalog item, " following "commodity number, "; rewrote (d) and (e); in (f), substituted "CRP" for "facilities" in the first sentence, and deleted "first" preceding "notify" in the last sentence.

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§ 10:99-5.3 Certification of exceptions

(a)The CNA allows a purchasing agency to procure from commercial sources in accordance with provisions of New Jersey statutes, or other applicable local ordinances, commodities or services on the procurement list when both of the following conditions are met:

- 1.The CRP cannot furnish a commodity or service within the period specified; and
- 2.The commodity or service is available from a commercial source in the specified quantities and within the period specified.

(b)The CNA may similarly issue a certification of exception as in (a) above when the quantity involved is not sufficient for economical production or provision by the CRP.

(c)When the conditions in (a) or (b) above are met, the CNA shall provide such certification within five business days, specify the quantities and delivery period covered by the certification, and notify the CSC of its action.

(d)Certifications of exception shall be provided in written form.

(e)A record of exceptions (returned orders) shall be maintained by the CNA.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

In (a)1, substituted "CRP" for "facility"; in (b), substituted "CRP" for "facilities"; in (c), deleted "and shall" preceding "specify", "shall" preceding "notify", and substituted "CSC" for "Council"; added (e).

End of Document

N.J.A.C. 10:99-5.4

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§ 10:99-5.4 Prices

(a)The prices included in the sales catalog shall be based on the fair market price established by the CSC in accordance with N.J.A.C. 10:99-2.4.

(b)Prices for commodities include delivery costs (freight on board (FOB) destination).

(c)Price changes for commodities and services shall apply to all orders placed on or after the effective date of the change.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote (a); in (b), substituted "freight on board (FOB)" for "fob".

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§ 10:99-5.5 Shipping and delivery

Commodities shall be shipped freight prepaid (freight on board (FOB) destination). Delivery shall be accomplished when a shipment is received and accepted by the purchasing agency. Time of delivery is the time and date the shipment is received by the purchasing agency.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "freight on board (FOB)" for "fob".

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§ 10:99-5.6 Payments

Payments for products or services shall be made within 30 days after receipt of shipment and a correct invoice or voucher, whichever is later, unless altered by specific contract provision or applicable State law.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Deleted "or rehabilitation facilities" following "services".

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§ 10:99-5.7 Adjustment and cancellation of purchase orders

When the CNA or a CRP fails to comply with the terms of a government purchase order, the purchasing agency shall make every effort to negotiate adjustments before taking action to cancel the order. When an order is canceled for failure to comply with its terms, the CNA shall be notified and, if practicable, requested to reassign the order. The CNA shall notify the CSC of any cancellation of an order and the reason therefore.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-5.8 Correspondence and inquiries

All correspondence or inquiries concerning production commodities or performance of services by CRPs shall be with the CNA.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-5.9 Quality of merchandise and services produced or provided by CRPs

(a)Commodities furnished under State specification by CRPs shall be manufactured in strict compliance with such specifications. Where no specifications exist, commodities produced shall be of the highest quality and equal to similar items available on the commercial market. Commodities shall be subject to inspection by the CNA utilizing nationally recognized test methods and procedures for sampling and inspection.

(b)Services provided by CRPs shall be performed in accordance with State specifications and standards. Where no State specification or standard exists, the services shall be performed in accordance with best commercial practices.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Rewrote the section.

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§ 10:99-5.10 Quality complaints

When the quality of a commodity or service received from a CRP is not considered satisfactory by the purchasing agency, the agency shall address complaints to the CNA. The CNA shall take necessary action to remedy the problem and shall advise the CSC of the action taken.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

Substituted "a CRP" for "rehabilitation facilities", "purchasing" for "using", and "CSC" for "Council".

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§ 10:99-5.11 Specification changes

(a) Specifications cited in the sales catalog may undergo a series of changes, indicated by revision dates, to keep current with industry changes and agency requirements. Since it is not feasible to show the latest revision current on the publication date, only the basic specification is referenced in the sales catalog. Purchasing agencies shall notify the CNA of the latest applicable specification.

(b) When a State department or agency is changing the design or construction of a commodity in the sales catalog that involves the assignment of a new commodity number, the State agency shall notify the CSC and the CNA of the contemplated change prior to its effective date and be permitted to incorporate such change in its listed products. The CNA will similarly notify the participating CRP of this change.

History

HISTORY:

Amended by R.2002 d.242, effective August 5, 2002.

See: 34 New Jersey Register 1402(b), 34 New Jersey Register 2840(b).

In (b), substituted "CSC" for "Council" and "CRP" for "facility".

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