

6. Pending proceedings against a professional or occupational license issued to the licensed physical therapist or licensed physical therapist assistant by a professional or occupational board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of physical therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:39A-5A.3 Reinstatement of suspended license

(a) A licensed physical therapist or licensed physical therapist assistant who has had his or her license suspended pursuant to N.J.A.C. 13:39A-5A.1(e) may apply to the Board for reinstatement. A licensed physical therapist or licensed physical therapist assistant applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license that includes the name, address, and telephone number of each employer;
3. The renewal fee set forth at N.J.A.C. 13:39A-1.3 for the biennial period for which reinstatement is sought;
4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
5. The reinstatement fee set forth at N.J.A.C. 13:39A-1.3; and
6. Evidence of having completed all continuing education credits for the current biennial registration period, consistent with the requirements set forth at N.J.A.C. 13:39A-9.2.

(b) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of physical therapy and submits proof of having satisfied that state's continuing education requirements, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above apply.

(c) To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial/triennial period for which reinstatement is sought, the Board will allow applicants to take the courses within 12 months following reinstatement.

(d) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant, as a condition of reinstatement of licensure, to take, and successfully complete, education or training, or to submit to supervision, monitoring, or limitations, as the Board determines necessary to assure that the applicant practices with reasonable skill and safety. The Board may restore the license subject to the applicant's completion of training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board may consider the following:

1. Length of time license was suspended;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any professional or occupational board;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of physical therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensed physical therapist or licensed physical therapist assistant by a professional or occupational board in New

Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of physical therapy or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

SUBCHAPTER 9. CONTINUING EDUCATION AND COMPETENCY

13:39A-9.3 Acceptable course offerings; credit hour calculation

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

(c) If a licensed physical therapist or licensed physical therapist assistant leaves a course, program, or seminar approved pursuant to (b) above prior to the end of the course, program, or seminar, the provider shall assign partial credit for the course, program, or seminar, based on the amount of time the licensed physical therapist or licensed physical therapist assistant attended the course, program, or seminar, as indicated by attendance sheets maintained by the sponsor pursuant to N.J.A.C. 13:39A-9.6(a).

Recodify existing (c)-(j) as (d)-(k) (No change in text.)

13:39A-9.6 Responsibilities of continuing education and competency providers

(a) All providers of continuing education and competency not included in N.J.A.C. 13:39A-9.3(b) shall:

1. At least 45 business days prior to the date of the course, program, or seminar, submit the following for each course, program, or seminar offered for evaluation by the Board:

- i. (No change.)
- ii. The curriculum vitae of each [lecturer, including specific background which qualifies the individual as a lecturer in the area of instruction] **instructor that indicates the lecturer has met the requirements of (b) below;**
- iii.-iv. (No change.)

2.-6. (No change.)

(b) In order to be qualified to instruct a continuing education course, an instructor shall:

1. If licensure is required to practice his or her profession, hold a current license to practice;
2. Maintain a list of continuing education coursework completed and taught by the instructor for the last five years; and
3. Have:
 - i. Been employed in the topic area of the course within the past five years;
 - ii. Published an article for peer reviewed journals in the topic area of the course within the past five years; or
 - iii. Written a chapter for academic textbooks in the topic area of the course within the past five years.

TREASURY—GENERAL

(a)

DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION

Electronic Procurement of Public Works Construction Project Rules

Proposed New Rules: N.J.A.C. 17:19-6

Authorized By: Elizabeth Maher Muoio, Treasurer, Department of the Treasury.

Authority: N.J.S.A. 52:34A-5, 52:34A-6, 52:34A-7, and 52:34A-8.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2021-006.

Submit written comments by March 20, 2021, to:

Wayne J. Martorelli, Assistant Deputy Director
Contract Administration

New Jersey Division of Property Management and Construction
20 West State Street, Third Floor
PO Box 235
Trenton, New Jersey 08625-0235
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The agency proposal follows:

Summary

The Department of the Treasury (Department), Division of Property Management and Construction (DPMC) is proposing new rules at N.J.A.C. 17:19-6 in order to implement P.L. 2020, c. 56 (N.J.S.A. 52:34A-1 through 52:34A-9), the Electronic Construction Procurement Act (the Act). The Act requires that State contracting units, including the DPMC, State colleges, and the New Jersey Schools Development Authority (SDA), establish and implement procedures for the solicitation, bidding, and award of construction contracts through the use of electronic procurement, including computer technology and the internet. The Act requires the Treasurer to adopt appropriate rules setting forth the specific criteria stated in the Act to govern both the acquisition of the technology that will be required to implement electronic procurement systems and the procedures that will govern the electronic procurement of construction contracts.

The proposed new rules are intended to govern electronic construction procurement by the DPMC. The rules are also intended to establish a baseline for electronic construction procurement by other State contracting units, as defined in the Act, that is, State colleges pursuant to the State College Contracts Law (N.J.S.A. 18A:64-52 et seq.); and the SDA pursuant to N.J.S.A. 52:18A-235 et seq. However, because procurement by those contracting units is governed by separate statutory schemes that differ materially from that under which DPMC operates, to the extent that those contracting units are required to undertake electronic construction procurement, the proposed rules are not intended to preclude or limit other State contracting units from promulgating additional rules specific to their own specialized needs or statutory requirements.

The proposed new rules will govern DPMC's classification and prequalification of firms for State construction projects.

Proposed new N.J.A.C. 17:19-6.1 restates the Act's legislative purpose set forth in section 2 of the Act (N.J.S.A. 52:34A-2).

Proposed new N.J.A.C. 17:19-6.2 restates the definitions in Section 3 of the Act (N.J.S.A. 52:34A-3) that are applicable to DPMC.

Proposed new N.J.A.C. 17:19-6.3 identifies alternative non-electronic means of soliciting bids from prospective bidders on State construction contracts, to augment and supplement the electronic means of bid solicitation required by the Act. The alternative means include newspaper advertisements, direct mailings to classified firms, advertisement in design and construction publications and trade journals covering the construction industry in New Jersey, and written notice to New Jersey professional societies and associations. All of these means of solicitation are presently employed by DPMC.

Proposed new N.J.A.C. 17:19-6.4 sets forth the bidding components that must be contained in contracts awarded for State construction projects under Section 6 of the Act (N.J.S.A. 52:34A-6). Also, as mandated under Section 6 of the Act, the proposed new section states that bidders on DPMC construction projects must use the bid proposal form that will be available on the DPMC website. Finally, it restates the requirement of Section 6 of the Act that bidders on State public works projects be duly classified or prequalified before being allowed to submit bids.

Proposed new N.J.A.C. 17:19-6.5 sets forth the required criteria for the electronic procurement processes to be utilized in the advertising, bidding, and award of State construction contracts, as provided pursuant to Section 7 of the Act (N.J.S.A. 52:34A-7). Proposed new N.J.A.C. 17:19-6.5 also establishes a requirement that bidders retain originals of certain documents submitted in electronic format, and produce such original documents as may be required in connection with the bidding and award of such contracts. Additionally, proposed new N.J.A.C. 17:19-6.5 authorizes the State to accept commercial standards for electronic forms of bid security, as provided under Section 8 of the Act (N.J.S.A. 52:34A-8). Finally, new N.J.A.C. 17:19-6.5 also provides that advertising, bidding, and award of contracts for goods and services including, but not

limited to, information technology services, hardware and software, required in connection with the acquisition, implementation, or maintenance of all or any part of an electronic procurement process system, shall be administered under existing statutes and rules governing procurement by the State for goods and services.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Department does not anticipate that adoption of the proposed new rules will have any negative social impact. Adoption of electronic procurement will make bid submission easier, potentially increasing the pool of bidders, and increasing competition, leading to lower construction costs on State projects.

Economic Impact

Adoption of the proposed new rules will have a positive economic impact, by enhancing the efficiency of the advertising, bidding, and award of State construction contracts through the utilization of electronic procurement processes. Adoption of electronic procurement will make bid submission easier, potentially increasing the pool of bidders, and increasing competition, leading to lower construction costs on State projects.

Federal Standards Statement

The proposed new rules do not exceed standards or requirements imposed by Federal law as there are currently no Federal standards or requirements applicable to the subject matter of this rulemaking. As a result, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that the proposed new rules would result in either the generation or loss of jobs. Rather, it is the Department's understanding that the intent of the Act and, therefore, the rules promulgated to implement the Act, would be to protect existing jobs.

Agriculture Industry Impact

The Department does not anticipate that the proposed new rules would have any impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed new rules would not impose any reporting, recordkeeping, or compliance requirements on small businesses, as that term is defined within the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact Analysis

The proposed new rules would not evoke a change in the average costs associated with housing, or on the affordability of housing in the State, as the rules pertain to the electronic procurement of public works construction project.

Smart Growth Development Impact Analysis

The proposed new rules would not evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed new rules do not pertain to housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey, as the rules pertain to the electronic procurement of public works construction project.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposed new rules follows:

SUBCHAPTER 6. ELECTRONIC PROCUREMENT OF PUBLIC WORKS CONSTRUCTION PROJECT RULES

17:19-6.1 Purpose

The purpose of this subchapter is to promulgate standards for the implementation and use of electronic procurement technologies that ensure the integrity and procedural protections of sealed public bidding and competitive contracting in an electronic environment.

17:19-6.2 Definitions

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

“Electronic construction procurement” means, for the purposes of public works construction projects, the use of computer technology and the Internet for: the advertising and submission of public bids, providing notice of revisions or addenda to advertisements or bid documents, the receipt of proposals and quotations, and related practices to assist in determining the lowest responsible bidder or other agency-appropriate bid or proposal procurement standard.

“Public works construction” means any project that is subject to the New Jersey Prevailing Wage Act, P.L. 1963, c. 150 (N.J.S.A. 34:11-56.25 et seq.), and is contracted for by a State or local public contracting unit for the purposes of construction, reconstruction, demolition, alteration, custom fabrication, repair work, or for maintenance work, including painting and decorating, done under contract and paid for, in whole or in part, out of the funds of a public body. Public works construction also means construction, reconstruction, demolition, alteration, custom fabrication, repair work, or maintenance work, done on any property or premises, whether or not the work is paid for from public funds if at the time of the entering into the contract, the property or premises is owned by the government entity.

“State contracting unit” means a government entity that contracts for the procurement of goods, services, or the construction of public works pursuant to the State College Contracts Law, P.L. 1986, c. 43 (N.J.S.A. 18A:64-52 et seq.); P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.); or Chapter 32, 33, or 34 of Title 52 of the New Jersey Revised Statutes.

17:19-6.3 Advertisement of public works construction projects

(a) The DPMC, and other State contracting units shall advertise for bids on public works construction projects, whenever the project requires advertisement, through the use of an electronic construction procurement process. Additionally, it may solicit bids in one or more of the following methods, as necessary:

1. In newspapers;
2. By use of direct mailings to classified firms;
3. In design and construction publications and trade journals covering the construction industry in New Jersey; or
4. By written notice to New Jersey professional societies and associations.

17:19-6.4 Procedure for the advertisement, bidding, and award of contracts for public works construction by State contracting units through electronic construction procurement

(a) Whenever a State contracting unit is required by law to publicly advertise a contract for public works construction, the advertisement, issuance of bidding documents to interested bidders, public notice of revisions, addenda, or bulletins to bidding documents, submission and receipt of bid proposals, and notice of contract award shall be administered through an electronic construction procurement process as required by the Electronic Construction Procurement Act, N.J.S.A. 52:34A-1 et seq.

(b) Contracts to be awarded for State construction projects through the use of an electronic procurement process shall contain the following bid components:

1. General conditions of the contract;
2. Plans and specifications of the public works construction project;
3. Competitive bidding for the contract, if appropriate;
4. Classification of firms submitting bids, if required;
5. A statement of corporate ownership of the entity or entities submitting bids;

6. A bid bond and performance bond security, where required by law;
7. Execution of the contract;
8. Certification of financial ability to complete the work;
9. Commencement of the work;
10. A prevailing wage mandate;
11. An acknowledgement of addenda and bulletins;
12. The naming of prime subcontractors, where required by law, or the bidding documents;
13. Specified alternates;
14. A non-collusion affidavit; and
15. A political contribution disclosure.

(c) In submitting bids for State public construction projects through an electronic procurement process, bidders and vendors shall use the bid proposal form or format, which shall be available on the DPMC website.

(d) All contractors or vendors seeking a contract for public works construction pursuant to N.J.S.A. 52:34A-6.c shall be classified, as required, with DPMC, as provided in this subchapter or prequalified by the Department of Transportation, NJTransit, or the New Jersey Turnpike Authority, prior to submitting a bid to those agencies.

17:19-6.5 Criteria required for electronic procurement processes

(a) The electronic procurement processes employed in the advertisement, bidding, and award of contracts for State public works construction shall meet the following:

1. Allow for a business or company that creates or provides software to effectuate electronic procurement to provide those services pursuant to N.J.S.A. 52:34-1 et seq., if the business or company has prior experience providing electronic procurement services to the State and to other public entities including, but not limited to, experience prior to the effective date of N.J.S.A. 52:34A-1 et seq.;

2. Allow State contracting units to advertise bids and distribute bidding documents, including plans and specifications;

3. Be a closed loop system that allows contractors, vendors, and bidders, to receive bid solicitations and documentation, as well as submit bids electronically;

4. Provide a digital lockbox that ensures bid information cannot be accessed by a third-party before the bid deadline, including an electronic bidding servicer or the State;

5. Allow bids to be encrypted upon submission and when in the digital lockbox;

6. Use digital signature technology and provide for identity verification;

7. Allow for electronic bid validation;

8. Allow bids to be withdrawn and resubmitted by the vendor or bidder at any point up to the published bid deadline;

9. Allow addenda and bulletins to be issued electronically with addenda and bulletins automatically applied to the online bid form;

10. Provide capabilities to create and edit templates of bid forms;

11. Provide the means for the State to require data types including, but not limited to, numeric prices;

12. Alert contractors, vendors, and bidders of missing required data;

13. Provide email notification to contractors, vendors, and bidders of issuance of bid advertisement, bulletins, and addenda;

14. Identify classification or commodity codes, as required by the contracting agency to allow for targeted notifications to contractors, vendors, and bidders;

15. Provide system implementation services and training to State contracting units at no cost; and

16. Offer scheduled training webinars for contractors, vendors, and bidders at no cost.

(b) To the extent required to implement the electronic procurement requirements set forth at N.J.S.A. 52:34A-1 et seq., all current statutory, regulatory, and policy procedures related to public bidding shall be converted to an electronic procurement environment.

1. Any document that by operation of statute, rule, or policy is required to be included with a bid or proposal submitted in a public works construction procurement, the form of which requires an affidavit, notarization, or physical seal or the signature or certification of a third-party not covered by, or subject to, the identity verification process or digital signature technology in an electronic procurement process for a

public works construction project, shall be submitted as a scanned electronic image or other electronic file; and shall be deemed acceptable by the State contracting unit, as long as the original document from which the electronic file is derived contains the required affidavit, notarization, physical seal, certification, and/or signature as otherwise required by law.

2. A party submitting an electronic file version of a document described at (b)1 above shall retain the original document from which the electronic version is derived, and shall produce the original document, upon request by the State contracting unit, at, or after, the time of bid opening, contract award, or other relevant time as specified in the advertisement or solicitation documents.

(c) State contracting units are hereby authorized to accept commercial standards for electronic forms of bid security.

(d) Advertising, bidding, and award of contracts for goods and services including, but not limited to, information technology services, hardware, and software, in connection with the acquisition, implementation, or maintenance of all or any part of an electronic procurement process system shall be administered under existing statutes and rules governing procurement by the State for goods and services.
