



CIRCULAR

STATE OF NEW JERSEY

DEPARTMENT OF THE TREASURY

NO.: 10-16-DPMC	ORIGINATING AGENCY: DIVISION OF PROPERTY MANAGEMENT & CONSTRUCTION	PAGE 1 OF 5
EFFECTIVE DATE: 4-16-10	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 96-12-GSA
SUBJECT: DELEGATION OF AUTHORITY – SMALL CONSTRUCTION PROJECTS		
ATTENTION: DIRECTORS OF ADMINISTRATION AND EXECUTIVE BRANCH PROCUREMENT OFFICERS		
FOR INFORMATION CONTACT: DEPUTY DIRECTOR, CONTRACT ADMINISTRATION		PHONE: (609) 984-3629

I. PURPOSE

The purpose of this circular is to set forth policy and procedures for the delegation of authority to Client Agencies for the bidding and awarding of small construction projects without advertising. It also establishes procedures for plan review and inspection of small projects to ensure compliance with the New Jersey Uniform Construction Code, N.J.A.C. 5:23. For Client Agencies unable or unwilling to accept this delegation of authority, the Division of Property Management & Construction (DPMC) will continue to provide design, award and management services for small projects as required.

II. REFERENCES

- A. New Jersey Statutes Annotated: N.J.S.A. 52:34-7, Purchase of contracts without advertising.
- B. The Treasurer's Announcement "Adjustment to Public Bidding Thresholds." Thresholds are updated on the Purchase Bureau website (www.state.nj.us/treasury/purchase.) Click on "Agency Information" and the DPMC thresholds are listed under "5-Year Thresholds."
- C. DPMC Instructions to Bidders and General Conditions for Small Projects dated July 1, 2003.
- D. N.J.A.C. 17:14 et seq., Small Business Enterprises (SBE) participation in State Construction Contracts.
- E. DPMC Policy & Procedure #08-03, "Agency Consultant Program," dated September 2008.
- F. DPMC Policy & Procedure #01-18 "DPMC Design & Code Plan Review" dated October 24, 2001.
- G. DPMC Policy & Procedure #10-03 "Emergency Projects/Waiver of Advertising."
- H. GSA Circular 94-34-GSA, "Capital Construction Fees and Contingencies and Requisitioning Procedures."

III. POLICY

- A. When the aggregate project cost or cost estimate for the erection, construction, alteration or repair of any State building or facility, including labor and construction materials, does not exceed the amount established under N.J.S.A. 52:34-7 et seq., the Client Agency may make, negotiate or award the small construction contract without public advertising. However, the Client Agency must establish procedures so that the procurement is performed in such a manner as to promote free and fair competition whenever competition is practicable. If the estimated cost for a small construction project will exceed the delegated threshold, the agency must initiate a DPMC project alert and proceed with the project through the normal DPMC design and bidding process.
- B. Definitions:
1. Agency Consultant means the architectural, engineering and consulting firms that provide consulting services for the design of small projects of State Client Agencies. These Architect/Engineer consulting firms are selected by the Client Agency through the DPMC Contracts & Procurement Unit on a 2-year basis.
 2. Architect/Engineer (A/E) means an architect, engineer or other design professional so recognized by the appropriate State professional licensing boards.
 3. Client Agency means any department, institution, college or other State body that uses DPMC for the design, construction, project management, and New Jersey Uniform Construction Code Plan Review of buildings and facilities.
 4. Contracts & Procurement Unit means the group within DPMC charged with the advertising and receipt of bids, contract award and classification of contractors.
 5. Contractor means an individual, partnership or corporation whose business is contracting work in one (1) or more of the building or construction trades.
 6. DCA means the New Jersey Department of Community Affairs.
 7. Division (DPMC) means the Division of Property Management & Construction, New Jersey Department of the Treasury.
 8. Facility means a building or group of buildings under common management or control.
 9. Small Construction Project means a project with a total cost that falls below the delegated threshold established under N.J.S.A. 52:34-7.
 10. Treasury Fiscal & Resources means the group within Treasury Administration charged with the procurement of funds and the payment of contractor's invoices.
 11. N.J.U.C.C. means the New Jersey Uniform Construction Code, N.J.A.C. 5:23.
 12. OMB means the Office of Management and Budget within the New Jersey Department of the Treasury.

IV. RESPONSIBILITIES

- A. Whenever possible, Client Agencies shall seek sealed informal bids from a minimum of three (3) contractors. Client Agencies shall use contractors having financial capabilities and experience in the trade to be performed in the work. **Use of DPMC's approved classified contractors is required. This list is located online on the DPMC website: http://www.state.nj.us/treasury/dpmc/contract_search.shtml**

Under no circumstances shall contractors from the State's list of debarred, suspended, or disqualified contractors be used.

- B. Client Agencies may not segment projects in an attempt to circumvent the small project delegation statutory threshold. That is, a Client Agency may not break a single project in excess of the threshold into component parts so that each part may be considered a separate project, for purposes of evading the dollar threshold established by law.
- C. Client Agencies are required to ensure that any contract(s) undertaken by them is in compliance with requirements of statutes governing construction contracts. This may include, but not be limited to: Division of Revenue (Business Registration), prevailing wages (N.J.A.C. 34:11-56.25 and P.L.1963 c. 150), Small Business Enterprise (SBE) requirements (N.J.S.A. 17:14 et seq.), public works (N.J.S.A. 34:11-56.48), affirmative action (N.J.A.C. 17:27-1.1), Source Disclosure (P.L. 2005, c. 92), Reporting of Political Contributions (P.L. 2005, c. 51) and other applicable requirements affecting said contract(s).

- D. Client Agencies are responsible to comply with provisions of N.J. A.C. 17:14 et seq. They are required to develop plans and procedures for meeting current SBE set-aside goals and requirements for projects they manage under these Delegated Authority procedures.
- E. Client Agencies are required to ensure that all construction projects are undertaken and completed in compliance with the N.J.U.C.C. As required herein, it is the Client Agency's responsibility to obtain the required plan review approval and construction permits directly from DPMC prior to starting work. They are also required to notify DCA when the construction work has begun, and when it is ready for any required inspection as per N.J.A.C. 5:23-2.18 of the N.J.U.C.C. Inspections can be arranged by calling DCA at 609-633-7399.
- F. Construction projects that the Client Agency initiates with "purchase orders" are not exempt from the N.J.U.C.C. permit requirements if the work undertaken requires a permit. If there is a question as to whether or not a construction permit is required for any construction project, contact DPMC Plan & Code Review at 609-984-5573 for clarification.
- G. If change orders result in an increase of the cost of the construction contract beyond the small projects threshold, the Client Agency must prepare a request for Waiver of Advertising and submit it through the DPMC Office of Construction Services (OCS), who in turn will forward it to the Deputy Director Contract Administration and the Treasurer's Office for approval.

V. PROCEDURES

Depending upon their capabilities, Client Agencies may undertake small construction projects, repairs and maintenance work according to the following procedures:

A. Client Agencies with Limited Construction Capabilities

Those Client Agencies that have no construction operations or limited administrative and technical capabilities may request DPMC to design and manage the project construction. The DPMC will administer the bidding and award of contracts to have the work completed and provide the requisite project management, and plan review services. To initiate a DPMC project, the Client Agency should submit a "Project Alert" form through the Statewide Land & Building Asset Management (LBAM) system.

B. Client Agency Administration of Small Construction Projects

For those Client Agencies administering their own small construction projects under the delegated threshold, the procedures outlined below shall be followed:

1. The Client Agency with the assistance of an architectural or engineering consultant (if necessary) will prepare the plans and/or specifications on which bidders will base their competitive bid proposals.
2. The Client Agency forwards a permit application, with the description of the work including plans and/or sketches signed and sealed by a New Jersey Licensed Architect or Engineer, to the DPMC for plan review and approval. DPMC may issue a permit, or reject the application and return it to the Client Agency for corrections. DPMC Plan & Code Review charges an hourly rate for these services on small construction projects under the delegated threshold.
3. The Client Agency solicits at least three (3) sealed bid proposals from contractors for the small construction project. All contractors solicited must be classified by DPMC in the applicable construction trade.

Informal solicitation packages for small construction bids should include the following:

- cover letter, to include date/time/place of any pre-bid meeting (if necessary) and bid due date and time
- bid proposal form and bid envelope

- any specifications, plans, or other information relating to the bid
- contractor's insurance requirements, requesting proof of the following required minimum coverage:

Workman's Compensation - \$250,000

Comprehensive Liability

- a. Bodily Injury - \$1,000,000 each occurrence
- b. Property Damage - \$1,000,000 each occurrence

Vehicle Liability

- a. Bodily Injury - \$1,000,000 each occurrence
- b. Property Damage - \$500,000 each occurrence

4. If a mandatory pre-bid meeting is necessary, the Client Agency chairs the meeting, ensures all attendees sign the sign-in sheet for the record, and memorializes all issues discussed.
5. Any changes made to the bid documents or bid due date must be distributed prior to the bid due date to all bidders, via a bulletin.
6. The Client Agency opens sealed bids at a specified time and place, and records the bid results, name of the person who opened the bids and those who witnessed the opening.
7. If the bids are over the threshold established in N.J.S.A. 52:34-7, the Client Agency must submit a Project Alert form on the LBAM system to initiate a formal DPMC project, or revise the scope of services to bring the cost of the project under the delegated threshold and rebid the project.
8. The Agency ensures that the low bidder is in compliance with all applicable requirements of statutes governing construction contracts. When the bid is determined to be in compliance and satisfactory, the Agency notifies the successful low bidder of the award. If the apparent low bidder is not in compliance with applicable contracting requirements, the Client Agency should notify the bidder that its bid is non-responsive, and proceed with award to the next low bidder, if that bid is acceptable.
9. The Client Agency encumbers the funds for the project. Once funding is encumbered in the NJCFS the Client Agency can award the contract to the successful bidder and schedule the initiation of the work.
10. As the work progresses, the Client Agency reviews the contractor's invoices for the completed work and approves and processes the payments to the contractor.
11. If code inspections are required by DCA during construction, the Client Agency is responsible for notifying DCA when the construction work is ready for any required inspections as per N.J.A.C. 5:23-2.18 of the N.J.U.C.C.
12. When the project is completed, accepted and approved, the DCA issues a Certificate of Occupancy or Approval to DPMC for distribution to the Client Agency.
13. After the DCA issues a Certificate of Occupancy or Approval, the designated representatives of the Client Agency can approve the contractor's final invoice and forward it for processing.

VI. FEES

DPMC will charge fees for plan review as stipulated by Circular Letter and the agency will be billed on a monthly basis. Construction Permit fees for projects will be based upon a fee schedule established by DCA for State projects.

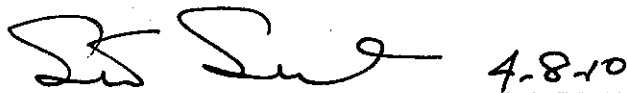
VII. TECHNICAL ASSISTANCE

Client Agencies that administer their own construction projects must have the capability of developing their own plans, sketches and specifications. If professional design assistance is required, the Client Agency must use an approved Agency Consultant, in accordance with DPMC Policy & Procedure 08-03.

VIII. EMERGENCY PROJECTS

- A. The Client Agency will occasionally encounter emergency projects as defined below. The Client Agency may immediately retain a contractor, without DPMC approval, and without competitive bidding for emergency projects which pose a serious threat and immediate danger to "life or limb" of persons; however, the Client Agency must apply for a permit, if one is required, from DCA or DPMC within 72 hours of starting the emergency work. Further, if the construction costs exceed the delegated threshold for small construction projects, the Agency must follow the procedures for emergency projects as set forth in DPMC #10-03, "Emergency Projects/Waivers of Advertising."
- B. The three (3) basic categories of emergencies are defined as follows:
1. A hazard that is an immediate threat or danger to the "life or limb" of persons. The Client Agency may directly engage a contractor to remedy a "life or limb" hazard without competitive bidding.
 2. A serious disruption of services which is a threat to "health or welfare" of persons. The Client may proceed to directly engage a contractor to remedy a "health or welfare" hazard without bidding with the concurrence of the DPMC. If sufficient time is available, the DPMC may require an expedited public bid or solicit informal bids from three or more contractors.
 3. A situation that poses a threat of serious loss or damage to property or inability to maintain the occupancy of buildings. The Client Agency may directly engage a contractor to remedy a "property loss or critical deadline" hazard without competitive bidding with the concurrence of the DPMC. If sufficient time is available, the DPMC will require an expedited public bid or in certain circumstances informal bids from three or more contractors.

A "Declaration of Emergency" from a Commissioner, Assistant Commissioner or Director of Facilities describing the extent of the hazardous emergency situation, its negative impact on the agency, recommendations for resolving the situation and a justification for the recommended procurement of the contractor(s) for the emergency repairs must be submitted to the DPMC per DPMC Policy and Procedure #10-03 "Emergency Projects/Waivers of Advertising."

Handwritten signature of Steven Sutkin in black ink, with the date "4-8-10" written to the right of the signature.

Steven Sutkin, Director
Division of Property Management & Construction