

LFN 2013-01

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Local Finance Notice

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Limits on Bid Acceptance Dates 2013 Federal and State Holidays

This Local Finance Notice provides local procurement officials a list of all 2013 Federal and State holidays for ensuring local compliance with N.J.S.A. 40A:11-23(a) and N.J.S.A. 18A:18A-21(a) regarding when bids cannot be accepted.

The law places limits on when contracting units can accept bids for local unit and public school contracts. The provision in both laws read as follows:

For all contracts, the date fixed for receiving the bids shall not fall on a Monday, or any day directly following a State or federal holiday.

Currently, all Federal holidays are also State holidays, and many of them fall on Mondays. **The law applies whether or not the contracting unit observes a given holiday.** Also note that Lincoln's Birthday is no longer a State holiday. The law supersedes local holiday observance. In addition, the Division advises that the law also applies to receipt of requests for proposals under competitive contracting.

The law does not apply to quotations or professional services, because the "10 days before receipt of bids" requirement does not apply. Also, board of education transportation contracts, pursuant to N.J.S.A. 18A:39-1 et seq., are not governed by the law.

In addition to "no-bid Mondays," the table on Page 2 of this Notice may be helpful to contracting units desiring to use the date following the Monday or holiday in 2013. The full laws are reprinted following the table.

Recipients of this Notice are asked to share it with their procurement staff, governing bodies, chief executive and administrative officers, legal counsel, engineers, and architects. The information should especially be shared with those individuals responsible for the development and preparation of specifications, and for the scheduling and receipt of bids and proposals.

Approved: Thomas H. Neff, Director, Division of Local Government Services

2013 Table of State and Federal Holiday Bid Acceptance Dates

In addition, bids may not be accepted on any Monday.

Holiday (no bids received)	Date	Day	Bid Due Day	Bid Due Date
New Year's Day	1/1/2013	Tuesday	Thursday	1/3/2013
Martin Luther King, Jr.'s Birthday	1/21/2013	Monday	Wednesday	1/23/2013
President's Day (Washington's Birthday)	2/18/2013	Monday	Wednesday	2/20/2013
Good Friday*	3/29/2013	Friday	Tuesday	4/1/2013
Memorial Day	5/27/2013	Monday	Wednesday	5/29/2013
Independence Day	7/4/2013	Thursday	Tuesday	7/9/2013
Labor Day	9/2/2013	Monday	Wednesday	9/4/2013
Columbus Day	10/14/2013	Monday	Wednesday	10/16/2013
Election Day*	11/5/2013	Tuesday	Thursday	11/7/2013
Veteran's Day observed	11/11/2013	Monday	Wednesday	11/13/2013
Thanksgiving Day	11/28/2013	Thursday	Tuesday	12/3/2013
Christmas Day	12/25/2013	Wednesday	Friday	12/27/2013

* State Holiday only (not federal)

Laws and Rules Related to Postponement and Issuing Addenda to Bids

N.J.A.C. Rules Applying to Local and Public School Contracting Units

5:34-9.3 Cancellation or postponement of receipt of bids or proposal

(a) Publicly announced receipt of bids or competitive contracting proposals shall be considered cancelled when the contracting unit must amend or modify the bid specifications and cannot meet the requirements of N.J.S.A. 40A:11- 23 and 18A:18A-21. The following procedures shall be used in the event a contracting unit cancels the receipt of publicly advertised bids or competitive contracting proposals:

1. All vendors who have either submitted bids or proposals, or received specifications or request for proposals, shall be notified by telephone, fax, or e-mail that the receipt thereof has been cancelled, the reason therefore, and notification regarding the return of the unopened bids pursuant to this section.
2. The contracting unit shall allow vendors to retrieve bids or proposals that had been:
 - i. Submitted at or before the time of cancellation;
 - ii. Previously sent but had not arrived by the time of cancellation; or
 - iii. For those not picked up by a vendor within 10 business days of being notified of their availability, the contracting unit shall return them, unopened, by certified mail or other delivery service that provides a delivery receipt.
3. On the day and time originally scheduled for receipt of bids or proposals, a notice shall be posted at the place where bids were to have been received, stating that the receipt of bids or proposals has been cancelled. No bids or proposals are to be received at this time.
4. All advertisements for the receipt of rescheduled bids or proposals must adhere to the requirements of N.J.S.A. 40A:11-23 or 18A:18A-21, as appropriate to the contracting unit for the statutory number of days between notice and when new bids or proposals can be received.

(b) Publicly announced receipt of bids or competitive contracting proposals shall be considered postponed when an unforeseen circumstance occurs that would affect or prohibit the opening of bids or proposals. The opening of the bids or proposals must occur within five days, excluding Saturdays, Sundays, and holidays, of the original date of the receipt of bids or proposals. The following procedures shall be used in the event a contracting unit must postpone the receipt of publicly advertised bids or competitive contracting proposals:

1. As soon as practicable, all vendors who have either submitted bids or proposals, or received specifications or request for proposals, shall be notified by telephone, fax, or e-mail that the receipt thereof has been postponed and the reason therefore.
2. If possible, on the day and time originally scheduled for receipt of bids or proposals, a notice shall be posted at the place where bids were to have been received, stating that the receipt of bids or proposals has been postponed.
3. In the event of a postponement, no bids or proposals shall be opened.

Local Public Contracts Law

40A:11-23. Advertisements for bids; bids; general requirements

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c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

1) For all contracts except those for construction work and municipal solid waste collection and disposal service, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the contracting unit and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

3) For municipal solid waste collection and disposal contracts, notice shall be published in an official newspaper of the contracting unit and in at least one newspaper of general circulation published in the State no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids.

d. Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the contracting unit shall not be considered failure by the contracting unit to provide notice.

Public School Contracts Law

18A:18A-21. Advertisements for bids; bids; general requirements

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c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

(1) For all contracts except those for construction work, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the board of education and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender.

(2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

d. Failure of the board of education to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the board of education from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the board of education shall not be considered failure by the board of education to provide notice.....