

N.J.A.C. 10:3

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 50 No. 10, May 21, 2018

New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 3. CONTRACT ADMINISTRATION

Title 10, Chapter 3 -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

N.J.S.A. 30:1-12 et seq.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2016 d.162, effective October 25, 2016.

See: 48 N.J.R. 1043(a), 48 N.J.R. 2439(a).

CHAPTER HISTORICAL NOTE:

Chapter 3, Contract Administration, was adopted as R.1978 d.83, effective March 7, 1978. See: 9 N.J.R. 469(b), 10 N.J.R. 154(a).

Subchapter 2, Capital Funding Program and Funding Agreement, was adopted as R.1983 d.392, effective September 19, 1983. See: 15 N.J.R. 1072(a), 15 N.J.R. 1580(a).

Pursuant to Executive Order 66(1978), Chapter 3, Contract Administration, expired on September 19, 1988.

Chapter 3, Contract Administration, was adopted as new rules by R.1988 d.513, effective November 21, 1988. See: 20 N.J.R. 1771(a), 20 N.J.R. 2898(a).

Subchapter 4, Cognizant Division Contracting, was adopted as R.1991 d.442, effective August 19, 1991. See: 23 N.J.R. 1647(a), 23 N.J.R. 2534(a).

Subchapter 3, Request for Proposal, was adopted as R.1991 d.554, effective November 4, 1991. See: 23 N.J.R. 957(a), 23 N.J.R. 3356(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Contract Administration, was readopted as R.1993 d.597, effective October 22, 1993. See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Debarment, Suspension and Disqualification of Person(s), Subchapter 2, Capital Funding Program and Funding Agreement, and Subchapter 3, Request for Proposal, were readopted as R.1998 d.551, effective October 22, 1998, and Subchapter 4, Cognizant Division Contracting, was repealed by R.1998 d.551, effective November 16, 1998. See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Chapter 3, Contract Administration, was readopted as R.2003 d.480, effective November 14, 2003. See: 35 N.J.R. 3516(a), 35 N.J.R. 5553(a).

Chapter 3, Contract Administration, was readopted as R.2009 d.211, effective May 13, 2009. See: 41 N.J.R. 66(a), 41 N.J.R. 2790(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 3, Contract Administration, was scheduled to expire on May 13, 2016. See: 43 N.J.R. 1203(a).

Chapter 3, Contract Administration, was readopted as R.2016 d.162, effective October 25, 2016. See: Source and Effective Date.

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N.J.A.C. 10:3-1.1

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 3. CONTRACT ADMINISTRATION > SUBCHAPTER 1. DEBARMENT, SUSPENSION AND DISQUALIFICATION OF PERSON(S)

§ 10:3-1.1 Definitions

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

"Affiliates" means persons having a relationship such that any one of them directly or indirectly controls or has the power to control another.

"Commissioner" means the Commissioner of the Department of Human Services or his designated representative.

"Debarment" means an exclusion from Department of Human Services (DHS) contracting on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

"DHS contracting" means any arrangement giving rise to an obligation to supply any thing to or perform any service for the DHS or divisions within the DHS other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the State provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service of the persons who may supply or perform the same.

"Disqualification" means a debarment or suspension which denies or revokes a qualification to bid or otherwise engage in DHS contracting which has been granted or applied for pursuant to statute or rules and regulations.

"Person" means any natural person, company, firm, association, corporation, or other entity.

"Suspension" means an exclusion from DHS contracting for a temporary period of time pending the completion of an investigation or legal proceedings.

End of Document

N.J.A.C. 10:3-1.2

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§ 10:3-1.2 Causes for debarment of a person

(a) Subject to the conditions hereinafter described, the Commissioner may debar a person for any of the following causes.

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;
2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;
3. Violation of the Federal or State Antitrust Statutes, or of the Federal Anti-Kickback Act (18 U.S.C. 874, 40 U.S.C. 276b, c);
4. Violations of any of the laws governing the conduct of elections of the Federal government, State of New Jersey or of its political subdivisions;
5. Violation of the "Law Against Discrimination" (P.L. 1945, c.169, N.J.S.A. 10:5-1 et seq., as supplemented by P.L. 1975, c.127), or of the act banning discrimination in public works employment (N.J.S.A. 10:2-1 et seq.), or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein (P.L. 1942, c.114, N.J.S.A. 10:1-10 et seq.);
6. Violations of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages or child labor;
7. Violations of any laws governing the conduct of occupations or professions or regulated industries;
8. Willful failure to perform in accordance with contract specifications or within contractual time limits;
9. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory

performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred;

10. Violation of contractual or statutory provisions regulating contingent fees;

11. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by the DHS or the divisions within DHS to warrant debarment, including such conduct as may be prohibited by the laws or contracts enumerated in this paragraph even if such conduct has not been or may not be prosecuted as violations of such laws or contracts. Divisions within the DHS may promulgate rules and regulations specifically setting forth other causes of such serious and compelling nature as to warrant debarment;

12. Debarment by another department or agency in the executive branch.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

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§ 10:3-1.3 Conditions affecting debarment of a person(s)

(a)Debarment shall be made only upon approval of the Commissioner except as otherwise provided by law.

(b)The existence of any of the causes set forth in N.J.A.C. 10:3-1.2 shall not necessarily require that a person be debarred. In each instance, the decision to debar shall be made within the discretion of the Commissioner unless otherwise required by law, and shall be rendered in the best interests of the State.

(c)All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance and in deciding whether debarment is warranted.

(d)The rendering of a final judgment or conviction based upon any of the grounds set forth in N.J.A.C. 10:3-1.2(a)1 through 7, by either a court of competent jurisdiction or by an administrative agency empowered to render such judgment shall establish cause for debarment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

(e)The existence of a cause set forth in N.J.A.C. 10:3-1.2(a)8 through 11 shall be established by evidence which the DHS determines to be clear and convincing in nature.

(f)Debarment for the cause set forth in N.J.A.C. 10:3-1.2(a)12 shall be proper provided that one of the causes set forth in N.J.A.C. 10:3-1.2(a)1 through 11 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

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§ 10:3-1.4 Procedures, period of debarment and scope of debarment

(a)The procedures, the period of debarment and scope of debarment are as follows:

1.The Department of Human Services, in seeking to debar a person or his affiliates, shall furnish such party with a written notice stating that debarment is being considered, setting forth the reasons for the proposed debarment and indicating that such party will be accorded an opportunity for a hearing if he so requests within a stated period of time. All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act. However, where one department or agency has imposed debarment upon a party, the DHS may also impose a similar debarment without according an opportunity for a hearing, provided that the DHS furnishes notice of the proposed debarment to that party and accords that party an opportunity to present information in his behalf to explain why the proposed debarment should not be imposed in whole or in part.

2.Debarment shall be for a reasonable and definite period of time which as a general rule shall not exceed five years. Debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is accorded an opportunity to present information in his behalf to explain why the additional period of debarment should not be imposed.

3.Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced in the discretion of the DHS upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management or control or the elimination of the causes for which the debarment was imposed.

4.A debarment may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated

where such conduct was accomplished within the course of his official duty or was effected by him with the knowledge or approval of such person.

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§ 10:3-1.5 Causes for suspension of a person(s)

The commissioner may suspend a person for any cause specified in this subchapter or upon adequate evidence that such cause exists.

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N.J.A.C. 10:3-1.6

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§ 10:3-1.6 Conditions for suspension of a person(s)

- (a)** Suspension shall be imposed only upon approval of the commissioner and upon approval of the Attorney General except as otherwise provided by law.
- (b)** The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the commissioner and of the Attorney General, and shall be rendered in the best interests of the State.
- (c)** Suspension shall not be based upon unsupported accusation but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists.
- (d)** In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, and to inferences which may properly be drawn from the existence or absence of affirmative facts.
- (e)** Reasonable suspicion of the existence of a cause described in N.J.A.C. 10:3-1.2(a) 1 through 7 may be established by rendering of a final judgment or conviction by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur.
- (f)** A suspension invoked by another agency for any of the causes described in this subchapter may be the basis for the imposition of a concurrent suspension by DHS which may impose such suspension without the approval of the Attorney General or his designee.

N.J.A.C. 10:3-1.7

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§ 10:3-1.7 Procedures, period of suspension and scope of suspension

(a) The procedures, period of suspension and scope of suspension are as follows:

1. The DHS may suspend a person or his affiliates, provided that within 10 days after the effective date of the suspension, the agency provides such party with a written notice stating that a suspension has been imposed and its effective date, setting forth the reasons for the suspension to the extent that the Attorney General determines that such reasons may be properly disclosed, stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue, and indicating that, if such legal proceedings are not commenced or the suspension removed within 60 days of the date of such notice, the party will be given either a statement of the reasons for the suspension and an opportunity for a hearing if he so requests, or a statement declining to give such reasons and setting forth the agency's position regarding the continuation of the suspension. Where a suspension by one agency has been the basis for suspension by the DHS, the DHS shall note that fact as a reason for its suspension.

2. A suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

N.J.A.C. 10:3-1.8

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§ 10:3-1.8 Extent of debarment, suspension or disqualification

The exclusion from DHS contracting by virtue of debarment, suspension or disqualification shall extend to all State contracting and subcontracting within the control or jurisdiction of the DHS. However, when it is determined essential to the public interest by the commissioner, and upon filing of a finding thereof with the Attorney General, an exception from total exclusion may be made with respect to a particular State contract.

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§ 10:3-1.9 Prior notice

Insofar as practicable, prior notice of any proposed debarment or suspension shall be given to the Attorney General, or his designee, and the Treasurer.

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N.J.A.C. 10:3-1.10

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§ 10:3-1.10 List of debarred, suspended or disqualified person(s)

The DHS shall supply to the State Treasurer, a monthly list of all persons having been debarred, suspended, or disqualified in accordance with the procedures prescribed herein. Such lists shall at all times be available for public inspection.

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N.J.A.C. 10:3-1.11

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§ 10:3-1.11 Authority to contract

Nothing required by this order shall be construed to limit the authority of the DHS or its divisions to refrain from contracting within the discretion allowed by law.

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§ 10:3-1.12 Impact upon existing regulations

The provisions of this subchapter shall not be deemed to amend, revoke, or otherwise alter any existing regulations already adopted by divisions within the DHS concerning debarment, suspension or disqualification proceedings except insofar as such regulations or parts thereof are in direct conflict with the provisions of this subchapter and then only to the extent that such regulations or parts thereof are in conflict.

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§ 10:3-1.13 Appeals

Any appeals under the provisions of this subchapter shall be conducted pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq.) and the Uniform Administrative Procedure rules (N.J.A.C. 1:1).

History

HISTORY:

New rule, R.1988 d.513, effective November 21, 1988.

See: 20 New Jersey Register 1771(a), 20 New Jersey Register 2898(a).

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§ 10:3-1.14 Conflict of interest

- (a)**The violation of any of the prohibitions contained in this section shall render any vendor committing such violation liable to debarment in the public interest.
- (b)**The provisions of (c) through (h) below shall be included in all requests for proposals issued by the Department of Human Services.
- (c)**No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
- (d)**The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
- (e)**No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

(f)No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

(g)No vendor shall cause or influence, or attempt to cause or influence, any state officer or employee or special State officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the vendor or any other person.

(h)The provisions cited in this section shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public, subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

History

HISTORY:

New rule, R.1989 d.315, effective June 19, 1989.

See: 20 New Jersey Register 2849(a), 21 New Jersey Register 1699(b).

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New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 3. CONTRACT ADMINISTRATION > SUBCHAPTER 2. CAPITAL FUNDING PROGRAM AND FUNDING AGREEMENT

§ 10:3-2.1 Capital funding program

(a)The Department of Human Services has established a Capital Funding Program entailing contracting with private and local government agencies in order to carry out the purposes of the New Jersey Public Purpose Buildings Construction Bond Act of 1980 (P.L. 1980, c.119), the New Jersey Human Services Facilities Construction Bond Act of 1984 (P.L. 1984, c.157), the Public Purpose Buildings and Community Based Facility Construction Bonds Act (P.L. 1989, c.184), and the Developmental Disabilities Waiting List Reduction and Human Services Facilities Construction Bond Act of 1994 (P.L. 1994, c.108).

History

HISTORY:

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

Rewrote (a).

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§ 10:3-2.2 Capital Funding Agreement for Construction, Purchase, or Purchase and Renovation of Community-Based Facilities

(a)The Department efforts to consolidate division-specific contracts/agreements has culminated in the development of a Standard Contract/Agreement Document for the Construction, Purchase, or Purchase and Renovation of Community-Based Facilities. Copies of the Standard Document and updates may be obtained from:

Facilities Support Services
Department of Human Services
PO Box 700
Trenton, New Jersey 08625-0700

(b)In the event of a conflict between the standard document referred to in (a) above and any other agency rule in Title 10, the standard document shall prevail. Contract administration rules or documents formerly adopted or adopted in the future pertaining to specific divisions within the Department shall apply to the extent that they are not inconsistent with the standard document.

OFFICE OF ADMINISTRATIVE LAW NOTE: A copy of the Standard Contract/Agreement Document in (a) above was submitted as part of this proposal but is not reproduced herein. This document may be reviewed at the Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, New Jersey 08625-0700 or Facilities Support Services, PO Box 700, 222 South Warren Street, Trenton. This document will not be reproduced in the New Jersey Administrative Code.

History

HISTORY:

As amended, R.1983 d.561, effective December 5, 1983.

See: 15 New Jersey Register 1627(a), 15 New Jersey Register 2042(b).

Address changed from "Office of Community Management Services" to "Contract Policy and Management Unit".

Amended by R.1988 d.513, effective November 21, 1988.

See: 20 New Jersey Register 1771(a), 20 New Jersey Register 2898(a).

Address changed from "88 East State Street" to "9 Quakerbridge Plaza" and "Office of Community Management Services" changed to "Contract Policy and Management Unit".

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

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§ 10:3-2.3 Capital Funding Agreement for Renovation, Remodeling, Extension or Other Improvements to Agency-Owned or Leased Community Facilities

(a)The Department efforts to consolidate division-specific contracts/agreements has culminated in the development of a Standard Contract/Agreement Document for the Renovation, Remodeling, Extension or Other Improvements to Agency-Owned or Leased Community Facilities. Copies of the Standard Document and updates may be obtained from:

Facilities Support Services
Department of Human Services
PO Box 700
Trenton, New Jersey 08625-0700

(b)In the event of a conflict between the standard document referred to in (a) above and any other agency rule in Title 10, the standard document shall prevail. Contract administration rules or documents formerly adopted or adopted in the future pertaining to specific divisions within the Department shall apply to the extent that they are not inconsistent with the standard document.

OFFICE OF ADMINISTRATIVE LAW NOTE: A copy of the Standard Contract/Agreement Document in (a) above was submitted as part of this proposal but is not reproduced herein. This document may be reviewed at the Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, New Jersey 08625-0700 or Facilities Support Services, PO Box 700, 222 South Warren Street, Trenton. This document will not be reproduced in the New Jersey Administrative Code.

History

HISTORY:

As amended, R.1983 d.561, effective December 5, 1983.

See: 15 New Jersey Register 1627(a), 15 New Jersey Register 2042(b).

Amended by R.1988 d.513, effective November 21, 1988.

See: 20 New Jersey Register 1771(a), 20 New Jersey Register 2898(a).

Deleted text "heretofore existent".

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

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§ 10:3-2.4 Capital Funding Agreement for Community-Based Facility Planning and Design Services

(a)The Department, continuing in its efforts to consolidate contracts and agreements, has developed the Funding Agreement for Community-Based Facility Planning and Design Services document to be used by all divisions for preliminary planning/design services. Copies of the standard document and updates may be obtained from:

Facilities Support Services
Department of Human Services
PO Box 700
Trenton, New Jersey 08625-0700

(b)In the event of conflict between the standard document referred to in (a) above and any other agency rule in Title 10, the standard document shall prevail. Contract administration rules or documents formerly adopted or adopted in the future pertaining to specific divisions within the Department shall apply to the extent that they are not inconsistent with the standard document.

OFFICE OF ADMINISTRATIVE LAW NOTE: A copy of the Standard Contract/Agreement Document in (a) above was submitted as part of this proposal but is not reproduced herein. This document may be reviewed at the Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, New Jersey 08625-0700 or Facilities Support Services, PO Box 700, 222 South Warren Street, Trenton. This document will not be reproduced in the New Jersey Administrative Code.

History

HISTORY:

New rule, R.1988 d.513, effective November 21, 1988.

See: 20 New Jersey Register 1771(a), 20 New Jersey Register 2898(a).

Amended by R.1993 d.597, effective November 15, 1993.

N.J.A.C. 10:3-2.4

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

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End of Document

N.J.A.C. 10:3-3.1

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§ 10:3-3.1 Purpose and scope

This subchapter applies to all departmental components, County Human Services Advisory Councils (CHSACs) and designated entities when departmental components choose to issue an RFP, and to all groups or entities responding to RFPs for contracts for the provision of third-party social services or training. The RFP process shall not be required for renewal or expansion of Department purchase of service contracts, unless the departmental component chooses to request proposals.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Rewrote the second sentence, and deleted the third sentence.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

Deleted "for programs in effect as of November 4, 1991" following "contracts" in the second sentence.

N.J.A.C. 10:3-3.2

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§ 10:3-3.2 Definitions

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

"Applicant" means the person, agency or entity responding to an RFP.

"County Human Service Advisory Councils (CHSACs)" means councils appointed by the government of each county to review county-level human service activities and to serve as the primary vehicle for local public input into New Jersey Department of Human Services' decision making. The activities of the County Human Services Advisory Councils include, but are not limited to, review and comment on human service proposals; preparation of allocation plans; review of existing purchase of service contracts; and coordination and consolidation of the local human services delivery systems.

"Days" means calendar days.

"Department" means the New Jersey Department of Human Services. As used throughout the subchapter, it also means, where appropriate from the context, the division, commission, bureau, office, unit or other designated component of the Department of Human Services responsible for the administration of particular contract programs.

"Departmental component" means the division, commission, bureau, office or other unit within the Department responsible for the negotiation, administration, review, approval, and monitoring of certain social service or training contracts.

"Designated entity" means that group or county board which has been given the authority by the Department of Human Services to solicit human service proposals for review and comment and recommended acceptance for third-party social service Contracts. Although the RFP is handled by a group other than the departmental component, the contract is signed and finalized by the departmental component.

"Minority" means a person who is:

1. African-American, having origins in any of the black racial groups in Africa;
2. Hispanic, having Spanish culture, with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;

3.Asian-American, having origins in and of the original peoples of the Far East, Southeast Asia, Indian subcontinent, Hawaii, or the Pacific Islands; or

4.American Indian or Alaskan native (Native American), having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliations or community recognition.

"Minority agency" means a business or organization, profit or nonprofit, which is:

1.A sole proprietorship, partnership, or joint venture in which at least 51 percent of the ownership interest is held by minorities and the policy-making, management and daily business operation are controlled by one or more of the minorities who own it; or

2.A corporation or other business entity authorized under the laws of the United States whereby 51 percent of the stockholders, board of directors, ownership or management of daily business operations is controlled by one or more minorities.

"Public employee" means a person employed by any State, county or municipal agency except elected officials.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Added "Minority" and "Minority agency".

Amended by R.2009 d.211, effective July 20, 2009.

See: 41 N.J.R. 66(a), 41 N.J.R. 2790(a).

Added definition "Public employee".

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§ 10:3-3.3 Request for proposal

(a)The departmental component or CHSAC/designated entity shall issue a public announcement of the availability of funds for the purchase of services in accordance with N.J.S.A. 52:14-34.4, 34.5 and 34.6. The announcement shall be made in a manner to permit reasonable competition among eligible provider agencies. The departmental component shall publish the announcement on the Department of Human Services (DHS) website for public notices and publications directed toward minorities. In addition, the departmental component may choose to do one of the following as a second notification: mail the announcement to identified prospective provider agencies, including those that may provide similar, but not the specific service requested, minority organizations and culturally diverse and sensitive groups or advertise in newspapers of general circulation. The Office of Contract Policy and Management (OCPM) will upload the announcement of the notice of the RFP on the Department of Human Services webpage at www.state.nj.us/humanservices/providers/grants/nofa/index.html.

(b)The departmental components may choose to have bidders conferences. Technical information regarding the RFP may be disseminated at such a meeting.

(c)The CHSACs/designated entities, at minimum, shall use the standards set forth in this subchapter when they are delegated the responsibility to solicit proposals on behalf of the Department. The Department shall be a signatory to the contract in this instance. In all other instances, the departmental component shall notify the CHSACs/ designated entity of the RFP, if appropriate.

(d)The proposal process shall be completed within 120 days of publication of the RFP notice on the DHS website, inclusive of all protest processes. See N.J.A.C. 10:3-3.13 for exceptions.

(e)Within three business days after a potential applicant has requested a proposal package, the departmental component or the CHSAC/designated entity shall forward a proposal package to, or the package may be picked up by, those prospective applicants responding to the public announcement. In addition, when the CHSAC/designated entity has been delegated the responsibility to solicit proposals on behalf of the Department, all appropriate Department procedures, as set forth in this subchapter, and county procedures, as

appropriate, shall be followed. The proposal package shall contain, at a minimum, the following information and requirements:

1. The amount of funds available, the source of funds, the purpose, scope, and goals of the programs and services solicited, and any specific conditions, requirements, and/or constraints such as spending caps or match requirements;
2. A list of requirements which must be fulfilled for the proposal to be evaluated;
3. The type of provider agencies eligible to submit a proposal for consideration;
4. A request for a list of the board of directors and officers of the applicant agency;
5. The address to which the completed proposal must be sent, the submission deadline (time and date) after which no applications will be accepted, time frames for review of the proposal and awarding of contracts, and the target date for implementation;
6. The name and address of a contact person who can provide technical assistance;
7. Funding proposal evaluation criteria (see N.J.A.C. 10:3-3.8);
8. A disclaimer stating the following: "The Department reserves the right to reject any and all proposals when circumstances indicate that it is in its best interest to do so. The Department's best interest in this context, include, but are not limited to, loss of funding, inability of the applicant to provide adequate services, indication of misrepresentation of information and/or noncompliance with State and Federal laws and regulations, any existing Department contracts, and procedures set forth in this subchapter";
9. The following statements:
 - i. "It is anticipated that the resulting contract will contain approximately (insert amount) dollars in funding;"
 - ii. Needed for the privatization of State service and/or program only:
 - (1) "In accordance with guidelines established by the New Jersey Executive Commission on Ethical Standards, be advised that Department employees or former employees are eligible to submit proposals to this RFP."
 - (2) "These services were previously State operated. Therefore, if awarded this contract, your provider agency may be responsible to maintain, administer and dispose of public records previously maintained by the State of New Jersey as defined by N.J.S.A. 47:3-16 and must agree to do so under the terms of the contract."
10. The appropriate information, forms and a list of required supporting documents as set forth in N.J.A.C. 10:3-3.6;
11. A copy of Executive Order No. 189(1988), regarding conflict of interest (see Appendix A, incorporated herein by reference);
12. The URL of the DHS/OCPM website where the Contract Reimbursement Manual and Contract Policy and Information Manual may be reviewed and downloaded prior

to proposal. The URL of that link is
www.state.nj.us/humanservices/ocpm/home/resources/manuals;

13.The terms and conditions which must be met to comply with specific funding requirements and Departmental contracting rules;

14.The Statement of Assurances and the requirement that it shall be properly signed by the Chief Executive Officer or equivalent and returned with the application package. See Appendix B incorporated herein by reference; and

15.A statement explaining the Department's protest process and that protest process by the departmental component must be completed within the time frame specified in the RFP or within 30 days after receipt of the CHSAC/designated entity recommendation, and that protest process by the CHSAC/designated entity must be completed within the 90-day process time period and prior to the recommendations being sent to the departmental component.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Rewrote (a); in (c), inserted the second sentence; in (e), added two day requirement for mailing of proposal packages; rewrote (e)9; inserted (e)9i and (e)9ii; inserted (e)14 and recodified existing (e)14 as (e)15.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

In (a), deleted "as defined in Section 10:3-3.2" at the end of the third sentence, and rewrote the fourth sentence as the fourth and fifth sentences; in (d), substituted "120 days of publication of the RFP notice in the New Jersey Register" for "105 days of publication" following "within"; and in (e), substituted a reference to three business days for a reference to two working days in the first sentence, rewrote 9i, substituted "Needed" for "In a RFP" at the beginning of 9ii, substituted "A copy" for "Notification" at the beginning of 11, and substituted a reference to informal reviews for a reference to reviews and substituted a reference to 30 days for a reference to 15 days in 15.

Administrative change.

See: 31 N.J.R. 872(c).

Amended by R.2009 d.211, effective July 20, 2009.

See: 41 N.J.R. 66(a), 41 N.J.R. 2790(a).

Rewrote (a), (e)12 and (e)15; and in (d), substituted "on the DHS website, inclusive of all protest" for "in the New Jersey Register, inclusive of all informal review".

Administrative change.

See: 41 N.J.R. 3091(b).

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§ 10:3-3.4 Sole source services

Where there is none or only one response to the RFP, after specifications of the RFP have been cited and all criteria of this subchapter have been met, documentation of any and all efforts to obtain multiple responses shall be kept in the Department RFP file. Documentation shall also be retained of every contact made by the departmental component or CHSAC/designated entity to find a provider agency to fulfill the required services.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

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§ 10:3-3.5 Internal controls for proposals

(a)The departmental component or CHSAC/designated entity shall maintain all correspondence to and from the departmental component or CHSAC/designated entity, whichever is applicable, in a file retained in the individual program RFP records.

(b)The person who maintains the correspondence file shall be different from the staff personnel who are on the review panel and participating in the selection process.

(c)The log shall indicate, at minimum, the following information:

- 1.The name of the program;
- 2.The submission deadline date;
- 3.The date the completed proposal was received from the applicant;
- 4.The name of the Department or CHSAC/designated entity staff person receiving the proposal for review and selection;
- 5.The decision of the review panel in awarding the contract; and
- 6.The date the decision letter notifying the applicant of acceptance or rejection was sent.

(d)All proposal packages shall be sent to applicants via first class mail, hand delivered or picked up in person, as decided by the departmental component, to ensure timely receipt by the applicant.

(e)Proposal packages from applicants shall be date and time stamped upon receipt.

(f)All decision letters concerning acceptance and rejection shall have the same date and shall be mailed via first class mail on that day.

(g)When a CHSAC/designated entity is handling the RFP process, all documentation shall be forwarded to the departmental component responsible for signing the contract for final approval and retention.

(h)The departmental component shall communicate to the CHSAC/designated entity the outcome of any departmental component protest process on a CHSAC/designated entity RFP and forward a copy of the final award letter to all parties concerned.

(i)When the RFP is for the privatization of DHS services/programs, the departmental component shall ensure that:

1. Department employees intending to bid on a privatization contract notify the New Jersey Executive Commission on Ethical Standards (Commission) in writing, with a copy to departmental component management, as soon as possible and before the application deadline;
2. The Division Director or other designated operations officer shall submit an affidavit to the Commission, stating that the named employee(s) had no substantial involvement in any of the following:
 - i. The decision to privatize the service/program or the ongoing privatization process;
 - ii. The preparation of the RFP; or
 - iii. The evaluation of the bids;
3. The Privatization Participation Documentation Form, Appendix C incorporated herein by reference, is completed, thus identifying all persons involved with the privatization project and those eligible to respond to the RFP;
4. The departmental component shall maintain records identifying all individuals involved in the privatization process, including, but not limited to, the employee's letter to the Executive Commission on Ethical Standards, the affidavit, and a list of all persons working on the privatization project.

(j)A blind review may be employed when deemed necessary by the departmental component.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

Added (i).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

In (a), substituted "maintain" for "record" following "shall", substituted a reference to files for a reference to logs, and substituted a reference to records for a reference to files; in (b), substituted "The person who maintains the correspondence file shall be" for "Correspondence shall be recorded in the log by a staff person" at the beginning; in (c), deleted former 3 and 4, and recodified former 5 through 8 as 3 through 6; in (d), substituted "picked up in person" for "faxed" following "delivered or"; in (i), added "When the RPF is" at the beginning; and added (j).

Amended by R.2009 d.211, effective July 20, 2009.

See: 41 N.J.R. 66(a), 41 N.J.R. 2790(a).

In (h), substituted "protest process" for "informal review" and "a" for "an" preceding "CHSAC", and inserted "to all parties concerned".

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§ 10:3-3.6 Funding proposal program summary and evaluation data; list of required information

(a)The funding proposal requirements shall apply to all proposals submitted to a departmental component or CHSAC/designated entity. Each proposal submitted to a departmental component or CHSAC/ designated entity shall contain the following:

- 1.**The funding proposal cover sheet, which shall include at minimum:
 - i.**The incorporated name of the applicant;
 - ii.**The agency type (that is, profit, nonprofit, hospital-based, public);
 - iii.**The Federal ID;
 - iv.**The charities registration number, if applicable;
 - v.**The address;
 - vi.**The contact person, with the person's name, title, phone number, fax number and E-mail address, if applicable;
 - vii.**The total dollar amount requested;
 - viii.**The fiscal year end; and
 - ix.**An authorization signature of the chief executive officer of the entity submitting the proposal.
- 2.**A brief statement of the applicant's mission and goals, including the applicant's history, purpose and objectives;
- 3.**A need justification, being a description of the basis for concluding that each of the proposed services is needed in the community and the factors that make the applicant the most capable to provide the services, including the following:
 - i.**The nature of the problem;
 - ii.**Existing services;
 - iii.**Current statistics;

- iv.**Current studies that have been conducted, either within the community or Statewide, which are relevant to the services being requested in the proposal;
- v.**The applicant's capability to provide the same or similar services as those existing in the community and/or the applicant's capability to provide a new type of service not currently available in the community; and
- vi.**The target population and characteristics.

4.The geographic area to be served;

5.Specific information regarding:

- i.**The service goals and objectives, including a description of what is to be gained by the clients or the provision of the services; and
- ii.**The manner in which the service outcome objectives will be measured;

6.If the client population to be served requires limited English speaking and/or bicultural services, a description of how access to the program, the program itself, outreach and referral are culturally relevant and linguistically appropriate for the population to be served, including the client and the client's family;

7.An indication of those services that will require a subcontract for provision of the services requested, including a list of the subcontracts by provider agency, if known;

8.A program approach based on the parameters set forth in the RFP, an overview of the total service package, including a description of how the services will be implemented and the time frames involved. The narrative shall address client population and geographic areas served, and for each component of the program package, the following information shall be provided as indicated:

- i.**A description of the service activities or methods that staff will employ to achieve the service objective;
- ii.**A description of how the agency will oversee the operation, the procedures utilized for monitoring the performance of the service activities, and how the agency will measure and evaluate the quality of service;
- iii.**As needed, a definition of each service component to be provided, including the purpose and goal of each;
- iv.**If applicable, an indication of the number, skills and qualifications of the staff that will perform the above service activities, as well as the use of any volunteers. A table of organization for administration and personnel position titles and job descriptions for each position;
- v.**If there are fees, a description of fees for service, sliding fee schedules and waivers of fees; and
- vi.**A description of client data to be recorded, the use of this data by the applicant, the means of maintaining confidentiality of client records and data, and the retention schedule of client records and schedule for destruction;

9.Information on accessibility of services, when specified by the departmental component, such as:

- i.**The hours and days that each service will be available to clients, including how emergencies are handled; for example, closings, client crisis, after-hours contacts;
- ii.**A list and description of the location(s) where each service will be provided to clients (including in-home provision, if that is an option);
- iii.**A description of transportation options for clients in obtaining each service; and
- iv.**A description of handicapped accessibility accommodations;

10.As needed, eligibility requirements and referral processes, such as:

- i.**A description of the priorities for accepting clients into the program and the procedures to be followed to ensure that all clients accepted meet the eligibility requirements for admission;
- ii.**An explanation of intake procedures;
- iii.**An explanation of referral mechanisms and processes (formal and informal) and community outreach procedures, including a description of the accommodations made for non-English speaking individuals; and
- iv.**As appropriate, termination procedures, including a list of the various reasons for termination, a description of the termination procedures (client and program-initiated), the appeals process, and follow-up services, as well as how non-English speaking persons are accommodated in this process;

11.Dependent upon the service requested, an indication of the level of service anticipated throughout the contract period; for example, number of clients to be served, number of meals served, round trips for transportation, hours;

12.When requested by the departmental component, information on service coordination, specification of ancillary agencies that will be frequently utilized in combination with the service being proposed for funding, including any already existing relationships and agencies which will be referral sources for these services including how formal coordination and referral agreements will be accomplished.

- i.**A commitment letter and/or affiliation agreement with any ancillary agencies should be requested of such agencies.

13.When requested by the departmental component in the RFP, information on programs managed by the applicant at the time of the application and the funding sources of such programs;

14.A completed Department budget proposal and a statement indicating the anticipated startup costs for the services;

15.A signed debarment certification statement that the applicant is not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from Federally funded contracts;

(b)A checklist shall be maintained by the responsible unit or the review panel chairperson regarding receipt of the information in (b)1 through 8 below. This information need only be reviewed by the responsible unit or the chairperson for receipt and completeness and then maintained in the RFP file. A copy of the checklist may be distributed to the review panel to assure them the proposal is complete.

- 1.A copy of the applicant's organizational chart;
- 2.A copy of the most recent organization-wide audit report;
- 3.A copy of the applicant's code of ethics and/or conflict of interest policy;
- 4.A list of the board of directors, officers and their terms of office;
- 5.Documentation of the applicant's charitable registration status;
- 6.A copy of the certification of incorporation of the applicant;
- 7.Originals and/or copies of letters of commitment from the collaborators; and
- 8.A list of the name(s) and address(es) of those entities providing support and/or money to help fund the program for which the proposal is being made.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Rewrote (a)3iv; inserted (a)5; recodified existing (a)5 through (a)24 as (a)6 through (a)25; deleted existing (a)25; and added (a)26.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

Rewrote the section.

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§ 10:3-3.7 Composition of review panel

(a)The unit responsible for RFP coordination shall convene a review panel consisting, at a minimum, of five public employees. These public employees on the review panel will serve as the sole voting members in the contractual award selection process. The panel may consist of a diverse group of people having expertise in areas, such as contracting, finance and programs/services, including Departmental regional and/or county/local representatives; or an allocations review panel under the auspices of the CHSAC/other appropriate community designated entity including, among others, mental health boards and commissions for individuals with disabilities. The responsible unit shall present an objective process to the review panel for the purpose of rating the proposals. In addition thereto, if needed, the Departmental component may convene an advisory panel consisting of community stakeholders and clients/consumers to provide their programmatic and service-oriented expertise to the review panel, as appropriate. Members of the advisory panel shall act in an advisory capacity in order to make recommendations to the review panel only and shall not have a vote in the contractual award process and shall not render advice on any matter in which they, their employer or a family member have a pecuniary interest.

(b)A panel member must disqualify himself or herself from the panel when he or she has any interest, financial, or otherwise, direct or indirect, in the results of the panel's evaluations (see Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq.). All review and advisory panel members shall be required to complete a conflict of interest form.

(c)The review panel may utilize the services of a consultant/expert to provide programmatic or other technical expertise that may assist the voting members in the review process. Consultants shall not serve as voting members of the review panel and shall be required to complete a conflict of interest form.

(d)The rating system to be used in evaluating criteria, such as numeric, shall generally be determined by the responsible unit.

(e)Recommendations of the panel are regarded as confidential until the awards are publicly announced.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

In (a), inserted the second and third sentences; rewrote (c); and added (e) and (f).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Deleted a former (d); and recodified former (e) and (f) as (d) and (e).

Amended by R.2009 d.211, effective July 20, 2009.

See: 41 N.J.R. 66(a), 41 N.J.R. 2790(a).

Rewrote (a) and (c); and in (b), inserted the last sentence.

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§ 10:3-3.8 Evaluation of the proposal

- (a)**All meetings of the review panel shall be documented, including a summary of the results of the meetings.
- (b)**The evaluation of the applicant's proposals shall be in writing using a pre-established evaluation form that explains the rating system used for the evaluation.
- (c)**Proposal shall be evaluated by a review panel using, at minimum, the required general criteria of the written RFP as outlined in N.J.A.C. 10:3-3.6. At a minimum, the information required by N.J.A.C. 10:3-3.6(a) shall be evaluated by a review panel to ensure satisfactory documentation, capability, clarity, reasonableness and consistency with the needs and requirements of the RFP.

History

HISTORY:

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

In (a), substituted "be documented, including a summary of the results of the meetings" for "have written minutes" at the end; rewrote (c); and deleted a former (d).

N.J.A.C. 10:3-3.9

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§ 10:3-3.9 Evaluation of applicant

(a)The applicant shall be evaluated to determine the following, and the departmental component or CHSAC/designated entity may conduct an onsite evaluation, if deemed necessary. The CHSAC/designated entity shall evaluate the applicant only on those factors with which they are familiar or about which they have accurate information. The departmental component shall be responsible for evaluation of all information presented by the applicant as specified in the RFP. The following should be included in the presentation:

- 1.Ability to comply with all terms and conditions of the standard language document and its associated annexes and attachments;
- 2.Prior history in the delivery of the same or similar services;
- 3.Qualifications of staff;
- 4.Adequacy of facilities;
- 5.Ability to manage the fiscal aspects of the contract including a satisfactory past history (a pre-award survey may be necessary prior to the signing of the contract);
- 6.Accountability of the program and management initiatives to ensure accountability of the staff, for example, supervision and training of staff, planned levels of service, and contingency plans to ensure attainment of objectives;
- 7.Evidence of ability (including satisfactory past performance and evaluation) to provide the proposed services to the target population, including limited English proficient and bicultural populations;
- 8.Evidence of the existence of adequate resources, facilities, and equipment to operate the proposed program;
- 9.Review of required documents; and
- 10.Opinions of references or other agencies that contract with the applicant.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

In (a), added the last sentence in the introductory paragraph, added a reference to limited English proficient and bicultural populations at the end of 7, and added 10.

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N.J.A.C. 10:3-3.10

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§ 10:3-3.10 Notification of selection

(a) Upon determining which proposals are most responsive and advantageous to the needs of the clients to be served or services to be rendered, costs and other factors considered, the Departmental component shall notify all applicants in writing of its selection within the time frames specified in the request for proposal, not to exceed 90 days from publication of the RFP announcement on the Department's public notice website. The protest process, if done by the component, must be completed in a time frame appropriate to the Department's policies, which shall be referenced in the RFP and the total RFP process shall not exceed 120 days from publication of the RFP announcement on the Department's public notice website.

(b) Acceptance letters shall indicate that:

1. The award is contingent on contract negotiation and that if, anytime before or during the contract negotiations, it is found that the agency awarded the contract is incapable of providing the necessary services or has misrepresented any material fact or its ability to handle the funding or provide the solicited services, the award may be rescinded. The rescission shall be made in writing, specifying why the award has been withdrawn.
2. The contract is not binding until funding has been verified and the Department's Standard Language Document is signed by both parties.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 N.J.R. 3694(b), 25 N.J.R. 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 N.J.R. 3959(a), 29 N.J.R. 5314(a).

In (a), added requirement that the total RFP process not exceed 105 days.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 N.J.R. 3193(a), 30 N.J.R. 4043(a).

Rewrote the section.

Amended by R.2009 d.211, effective July 20, 2009.

See: 41 N.J.R. 66(a), 41 N.J.R. 2790(a).

Rewrote the introductory paragraph of (a); and in (b)2, substituted "Standard Language Document" for "standard language document and the contract confirmation letter are".

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§ 10:3-3.11 Document retention

Awarded contracts, signed originals, all support materials and the recorded copy shall be retained by the departmental component for three years after the termination of the contract and four years thereafter at the records center prior to destruction. Unsuccessful proposals shall be retained for three years by the departmental component and then may be destroyed. The materials to be retained includes the RFP, the applicant proposals, all evaluation sheets, documentation from all review panel meetings, all privatization documentation and any other documentation that details why the agency was selected or not selected.

History

HISTORY:

Amended by R.1993 d.597, effective November 15, 1993.

See: 25 New Jersey Register 3694(b), 25 New Jersey Register 5165(a).

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Amended requirement to retain unsuccessful proposals from one year to three years.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

Inserted a reference to documentation from all review panel meetings and all privatization documentation in the last sentence.



N.J.A.C. 10:3-3.12

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§ 10:3-3.12 Contract negotiations

At the time an award is made to the applicant, negotiations shall proceed with the process of preparing and submitting a formal contract proposal package to the Department. The initial proposal as modified and agreed to by both parties may serve as the Annex A program description for the contract.

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N.J.A.C. 10:3-3.13

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§ 10:3-3.13 Exceptions to procedures

(a)The 120-day limitation may be adjusted accordingly by the Department if:

- 1.The announcement of the availability of funds limits the Department to less than 90 days for allocation, obligation, and/or expenditure of funds; or
- 2.The process requires an extension because of unforeseen circumstances.

(b)When there is an emergent danger and/or a risk to the health and welfare of clients as a result of strict adherence to N.J.A.C. 10:3-3, an exemption from the full RFP process may be granted and signed by the person in charge of the departmental component.

History

HISTORY:

Amended by R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Rewrote (a); and added (a)1 and (a)2.

Amended by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

Substituted a reference to a 120-day limitation for a reference to a 105-day limitation.

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APPENDIX A

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

ADDENDUM TO REQUEST FOR PROPOSAL FOR SOCIAL SERVICE AND TRAINING CONTRACTS

Executive Order No. 189 establishes the expected standard of responsibility for all parties that enter into a contract with the State of New Jersey. All such parties must meet a standard of responsibility which assures the State and its citizens that such parties will compete and perform honestly in their dealings with the State and avoid conflicts of interest.

As used in this document "provider agency" or "provider" means any person, firm, corporation, or other entity or representative or employee thereof which offers or proposes to provide goods or services to or performs any contract for the Department of Human Services.

In compliance with Paragraph 3 of Executive Order No. 189, no provider agency shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b and e, in the Department of the Treasury or any other agency with which such provider agency transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any provider agency shall be reported in writing forthwith by the provider agency to the Attorney General and the Executive Commission on Ethical Standards.

No provider agency may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such provider

agency to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

No provider agency shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.

No provider agency shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the provider agency or any other person.

The provisions cited above shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving gifts from or contracting with provider agencies under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate.

History

HISTORY:

Repeal and New Rule, R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Appendix was "Funding Proposal Cover Sheet".

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N.J.A.C. 10:3-3, Appx. B

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APPENDIX B

DEPARTMENT OF HUMAN SERVICES

STATEMENT OF ASSURANCES

As the duly authorized Chief Executive Officer/Administrator, I am aware that submission to the Department of Human Services of the accompanying application constitutes the creation of a public document and as such may be made available upon request at the completion of the RFP process. This may include the application, budget, and list of applicants (bidder's list). In addition, I certify that the applicant:

- . Has legal authority to apply for the funds made available under the requirements of the RFP, and has the institutional, managerial and financial capacity (including funds sufficient to pay the non-Federal/State share of project costs, as appropriate) to ensure proper planning, management and completion of the project described in this application.
- . Will give the New Jersey Department of Human Services, or its authorized representatives, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with Generally Accepted Accounting Principles (GAAP). Will give proper notice to the independent auditor that DHS will rely upon the fiscal year end audit report to demonstrate compliance with the terms of the contract.
- . Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. This means that the applicant did not have any involvement in the preparation of the RFP, including development of specifications, requirements, statement of works, or the evaluation of the RFP applications/bids.
- . Will comply with all Federal and State statutes and regulations relating to non-discrimination. These include but are not limited to: 1.) Title VI of the Civil Rights Act of 1964 (P.L. 88-352; 34 CFR Part 100) which prohibits discrimination on the basis of race, color or national origin; 2.) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794; 34 CFR Part 104), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 et seq.; 3.) Age

Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et. seq.; 45 CFR part 90), which prohibits discrimination on the basis of age; 4.) P.L. 975, Chapter 127, of the State of New Jersey (N.J.S.A. 10:5-31 et seq.) and associated executive orders pertaining to affirmative action and non-discrimination on public contracts; 5.) federal Equal Employment Opportunities Act; and 6.) Affirmative Action Requirements of P.L. 1975, c.127 (N.J.A.C. 17:27).

- . Will comply with all applicable Federal and State laws and regulations.
- . Will comply with the Davis-Bacon Act, 40 U.S.C. §§ 276a-276a-5 (29 CFR 5.5) and the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.27 et. seq. and all regulations pertaining thereto.
- . Is in compliance, for all contracts in excess of \$ 100,000, with the Byrd Anti-Lobbying amendment, incorporated at Title 31 U.S.C. § 1352. This certification extends to all lower tier subcontracts as well.
- . Has included a statement of explanation regarding any and all involvement in any litigation, criminal or civil.
- . Has signed the certification in compliance with Federal Executive Orders 12549 and 12689 and State Executive Order 66 and is not presently debarred, proposed for debarment, declared ineligible, or voluntarily excluded. Will have on file signed certifications for all subcontracted funds.
- . Understands that this provider agency is an independent, private employer with all the rights and obligations of such, and is not a political subdivision of the Department of Human Services.
- . Understands that unresolved monies owed the Department and/or the State of New Jersey may preclude the receipt of this award.

.....

Applicant Organization

.....

Signature: Chief Executive

Officer of Equivalent

.....

Date

.....

Typed Name and Title

History

HISTORY:

Repeal and New Rule, R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Appendix was "Request for Proposal: Budget Information Summary".



N.J.A.C. 10:3-3, Appx. C

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APPENDIX C

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History

HISTORY:

New Rule, R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

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N.J.A.C. 10:3-3, Appx. D

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APPENDIX D

READ THE ATTACHED INSTRUCTIONS BEFORE SIGNING THIS CERTIFICATION.
THE INSTRUCTIONS ARE AN INTEGRAL PART OF THE CERTIFICATION.

Appendix B to CFR § 29 Part 98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

1.The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by an Federal department or agency.

2.Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

15

.....
Name and Title of Authorized Representative

.....

Signature

Date

This certification is required by the regulations implementing Federal Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510.

Appendix A to CFR § 29 Part 98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

Instructions for Certification

1.By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2.The certification in this clause is a material representation of facts upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an

erroneous certification, in addition to other remedies available to the federal government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3.The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification erroneous when submitted or had become erroneous by reason of changed circumstances.

4.The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5.The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6.The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7.A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8.Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9.Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the

Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

History

HISTORY:

New Rule, R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Recodified from N.J.A.C. 10:3-3 Appendix F by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

Former N.J.A.C. 10:3-3 Appendix D, repealed.

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N.J.A.C. 10:3-3, Appx. E

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APPENDIX E (RESERVED)

History

HISTORY:

GENERAL NOTE :

New Rule, R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Repealed by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

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APPENDIX F (RESERVED)

History

HISTORY:

GENERAL NOTE :

New Rule, R.1997 d.532, effective December 15, 1997.

See: 29 New Jersey Register 3959(a), 29 New Jersey Register 5314(a).

Recodified to N.J.A.C. 10:3-3 Appendix D by R.1998 d.551, effective November 16, 1998.

See: 30 New Jersey Register 3193(a), 30 New Jersey Register 4043(a).

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Title 10, Chapter 3, Subchapter 4. (RESERVED)

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