

[First Reprint]

**ASSEMBLY, No. 5687**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED JUNE 30, 2023

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Burlington and Camden)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**SYNOPSIS**

Requires boards of education, municipalities, counties, and certain other local contracting units to determine and utilize cost-saving practices when procuring goods and services.

**CURRENT VERSION OF TEXT**

As reported by the Assembly State and Local Government Committee on November 30, 2023, with amendments.



1 AN ACT concerning cooperative purchasing by certain contracting  
2 units, amending N.J.S.18A:18A-1 et seq., P.L.1971, c.198, and  
3 P.L.1999, c.440, and supplementing chapter 27D of Title 52 of  
4 the Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. N.J.S.18A:18A-2 is amended to read as follows:

10 18A:18A-2. As used in this chapter, unless the context  
11 otherwise indicates:

12 a. "Board of education" means and includes the board of  
13 education of any local school district, consolidated school district,  
14 regional school district, county vocational school and any other  
15 board of education or other similar body other than the State Board  
16 of Education, the **[Commission on]** Secretary of Higher Education  
17 or the Presidents' Council, established and operating under the  
18 provisions of Title 18A of the New Jersey Statutes and having  
19 authority to make purchases and to enter into contracts for the  
20 provision or performance of goods or services. The term "board of  
21 education" also shall include the board of trustees of a charter  
22 school established under P.L.1995, c.426 (C.18A:36A-1 et seq.).

23 b. "Purchasing agent" means the secretary, business  
24 administrator, or the business manager of the board of education  
25 duly assigned the authority, responsibility and accountability for the  
26 purchasing activity of the board of education and having the power  
27 to prepare advertisements, to advertise for and receive bids and to  
28 award contracts as permitted by this chapter, but if there **[be]** is  
29 secretary, business administrator or business manager, such officer,  
30 committees or employees to whom such power has been delegated  
31 by the board of education.

32 c. (Deleted by amendment, P.L.1999, c.440**[.]**)

33 d. "District" means and includes any local school district,  
34 consolidated school district, regional school district, county  
35 vocational school and any other board of education or other similar  
36 body other than the State board, established under the provisions of  
37 Title 18A of the New Jersey Statutes.

38 e. (Deleted by amendment, P.L.1999, c.440**[.]**)

39 f. (Deleted by amendment, P.L.1999, c.440**[.]**)

40 g. "Extraordinary unspecifiable services" means services which  
41 are specialized and qualitative in nature requiring expertise,  
42 extensive training, and proven reputation in the field of endeavor.

43 h. "Professional services" means services rendered or  
44 performed by a person authorized by law to practice a recognized  
45 profession and whose practice is regulated by law and the

**EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

**<sup>1</sup>Assembly ASL committee amendments adopted November 30, 2023.**

1 performance of which services requires knowledge of an advanced  
2 type in a field of learning acquired by a prolonged formal course of  
3 specialized instruction and study as distinguished from general  
4 academic instruction or apprenticeship and training. Professional  
5 services may also mean services rendered in the provision or  
6 performance of goods or services that are original and creative in  
7 character in a recognized field of artistic endeavor.

8 i. (Deleted by amendment, P.L.1999, c.440[.])

9 j. "Purchases" means transactions, for a valuable  
10 consideration, creating or acquiring an interest in goods, services,  
11 and property, except real property or any interest therein.

12 k. "Work" means any task, program, undertaking, or activity,  
13 related to any development, redevelopment, construction, or  
14 reconstruction performed or provided pursuant to a contract with a  
15 board of education.

16 l. "Aggregate" means the sums expended or to be expended for  
17 the provision or performance of any goods or services in connection  
18 with the same immediate purpose or task, or the furnishing of  
19 similar goods or services, during the same contract year through a  
20 contract awarded by a purchasing agent.

21 m. "Bid threshold" means the dollar amount set in  
22 N.J.S.18A:18A-3, above which a board of education shall advertise  
23 for and receive sealed bids in accordance with procedures set forth  
24 in N.J.S.18A:18A-1 et seq.

25 n. "Contract" means any agreement, including but not limited  
26 to a purchase order or a formal agreement, which is a legally  
27 binding relationship enforceable by law, between a vendor who  
28 agrees to provide or perform goods or services and a board of  
29 education which agrees to compensate a vendor, as defined by and  
30 subject to the terms and conditions of the agreement. A contract  
31 also may include an arrangement whereby a vendor compensates a  
32 board of education for the vendor's right to perform a service, such  
33 as, but not limited to, operating a concession.

34 o. "Contract year" means the period of 12 consecutive months  
35 following the award of a contract.

36 p. "Competitive contracting" means the method described in  
37 sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 through  
38 C.18A:18A-4.5) of contracting for specialized goods and services in  
39 which formal proposals are solicited from vendors; formal  
40 proposals are evaluated by the purchasing agent or counsel or  
41 school business administrator; and the board of education awards a  
42 contract to a vendor or vendors from among the formal proposals  
43 received.

44 q. "Goods and services" or "goods or services" means any  
45 work, labor, commodities, equipment, materials, or supplies of any  
46 tangible or intangible nature, except real property or any interest  
47 therein, provided or performed through a contract awarded by a

1 purchasing agent, including goods and property subject to  
2 N.J.S.12A:2-101 et seq.

3 r. "Library and educational goods and services" means  
4 textbooks, copyrighted materials, student produced publications,  
5 and services incidental thereto, including but not limited to books,  
6 periodicals, newspapers, documents, pamphlets, photographs,  
7 reproductions, microfilms, pictorial or graphic works, musical  
8 scores, maps, charts, globes, sound recordings, slides, films,  
9 filmstrips, video and magnetic tapes, other printed or published  
10 matter and audiovisual and other materials of a similar nature,  
11 necessary binding or rebinding of library materials, and specialized  
12 computer software used as a supplement or in lieu of textbooks or  
13 reference material.

14 s. "Lowest price" means the least possible amount that meets  
15 all requirements of the request of a purchasing agent.

16 t. "Lowest responsible bidder or vendor" means the bidder or  
17 vendor: (1) whose response to a request for bids offers the lowest  
18 price and is responsive; and (2) who is responsible.

19 u. "Official newspaper" means any newspaper designated by  
20 the board of education pursuant to R.S.35:1-1 et seq.

21 v. "Purchase order" means a document issued by the  
22 purchasing agent authorizing a purchase transaction with a vendor  
23 to provide or perform goods or services to the board of education,  
24 which, when fulfilled in accordance with the terms and conditions  
25 of a request of a purchasing agent and other provisions and  
26 procedures that may be established by the board of education, will  
27 result in payment by the board of education.

28 w. "Quotation" means the response to a formal or informal  
29 request made by a purchasing agent to a vendor for provision or  
30 performance of goods or services, when the aggregate cost is less  
31 than the bid threshold. Quotations may be in writing, or taken  
32 verbally if a record is kept by the purchasing agent.

33 x. "Responsible" means able to complete the contract in  
34 accordance with its requirements, including but not limited to  
35 requirements pertaining to experience, moral integrity, operating  
36 capacity, financial capacity, credit, and workforce, equipment, and  
37 facilities availability.

38 y. "Responsive" means conforming in all material respects to  
39 the terms and conditions, specifications, legal requirements, and  
40 other provisions of the request.

41 z. "Public works" means building, altering, repairing,  
42 improving or demolishing any public structure or facility  
43 constructed or acquired by a board of education to house school  
44 district functions or provide water, waste disposal, power,  
45 transportation, and other public infrastructures.

46 aa. "Concession" means the granting of a license or right to act  
47 for or on behalf of the board of education, or to provide a service  
48 requiring the approval or endorsement of the board of education,

1 and which may or may not involve a payment or exchange, or  
2 provision of services by or to the board of education, provided that  
3 the term concession shall not include vending machines.

4 bb. "Index rate" means the rate of annual percentage increase,  
5 rounded to the nearest half-percent, in the Implicit Price Deflator  
6 for State and Local Government Purchases of Goods and Services,  
7 computed and published quarterly by the United States Department  
8 of Commerce, Bureau of Economic Analysis.

9 cc. "Proprietary" means goods or services of a specialized  
10 nature, that may be made or marketed by a person or persons having  
11 the exclusive right to make or sell them, when the need for such  
12 goods or services has been certified in writing by the board of  
13 education to be necessary for the conduct of its affairs.

14 dd. "Service or services" means the performance of work, or the  
15 furnishing of labor, time, or effort, or any combination thereof, not  
16 involving or connected to the delivery or ownership of a specified  
17 end product or goods or a manufacturing process. Service or  
18 services may also include an arrangement in which a vendor  
19 compensates the board of education for the vendor's right to operate  
20 a concession.

21 ee. "Cooperative purchasing system" means a cooperative  
22 pricing system, joint purchasing system, commodity resale system,  
23 county cooperative contract purchasing system, or regional  
24 cooperative pricing system in which a board of education, or in  
25 which two or more boards of education, enter into a contract for the  
26 procurement of goods or services.

27 (cf: P.L.1999, c.440, s.50)

28

29 2. N.J.S.18A:18A-3 is amended to read as follows:

30 18A:18A-3. a. When the cost or price of any contract  
31 awarded by the purchasing agent in the aggregate, does not exceed  
32 in a contract year the total sum of \$17,500, the contract may be  
33 awarded by a purchasing agent when so authorized by resolution of  
34 the board of education without public advertising for bids and  
35 bidding therefor, except that the board of education may adopt a  
36 resolution to set a lower threshold for the receipt of public bids or  
37 the solicitation of competitive quotations. If the purchasing agent  
38 possesses a qualified purchasing agent certificate pursuant to  
39 subsection b. of section 9 of P.L.1971, c.198 (C.40A:11-9), the  
40 board of education may establish that the bid threshold may be up  
41 to \$25,000. Such authorization may be granted for each contract or  
42 by a general delegation of the power to negotiate and award such  
43 contracts pursuant to this section.

44 b. Commencing in the fifth year after the year in which  
45 P.L.1999, c.440 (C.40A:11-4.1 et al.) takes effect, and every five  
46 years thereafter, the Governor, in consultation with the Department  
47 of the Treasury, shall adjust the threshold amount and the higher  
48 threshold amount which the board of education is permitted to

1 establish as set forth in subsection a. of this section or the threshold  
2 amount resulting from any adjustment under this subsection, in  
3 direct proportion to the rise or fall of the index rate as that term is  
4 defined in N.J.S.18A:18A-2, and shall round the adjustment to the  
5 nearest \$1,000. The Governor shall notify all local school districts  
6 of the adjustment no later than June 1 of every fifth year. The  
7 adjustment shall become effective on July 1 of the year in which it  
8 is made.

9 c. Prior to entering into a contract for the procurement of any  
10 goods or services, the board of education shall ensure that the  
11 contractor and any subcontractors are compliant with existing State  
12 and federal laws, rules, and regulations concerning:

13 (1) the antidiscrimination provisions of R.S.10:2-1 through  
14 R.S.10:2-4;

15 (2) the "Law Against Discrimination," P.L.1945, c.169  
16 (C.10:5-1 et seq.);

17 (3) the antidiscrimination, equal employment opportunity, and  
18 affirmative action provisions applicable pursuant to P.L.1975, c.127  
19 (C.10:5-31 et seq.);

20 (4) business registration requirements as described pursuant to  
21 P.L.2001, c.134 (C.52:32-44 et al.);

22 (5) the contribution restriction provisions pursuant to P.L.2005,  
23 c.51 (C.19:44A-20.13 et seq.);

24 (6) prevailing wage requirements pursuant to P.L.1963, c.150  
25 (C.34:11-56.25 et seq.);

26 (7) the provisions of the "Sales and Use Tax Act," P.L.1966,  
27 c.30 (C.54:32B-1 et seq.);

28 (8) the American goods sourcing provisions of section 18 of  
29 P.L.1971, c.198 (C.40A:11-18);

30 (9) valid classification in a trade as issued by the Division of  
31 Property Management and Construction in the Department of  
32 Treasury;

33 (10) submission of a sworn contractor certification pursuant to  
34 section 63 of P.L.2000, c.72 (C.18A:7G-37);

35 (11) compliance by local government officers and employees  
36 pursuant to section 5 of P.L.1991, c.29 (C.40A:9-22.5); <sup>1</sup>and<sup>1</sup>

37 (12) the disclosure of investment activities in Iran pursuant to  
38 P.L.2012, c.25 (C.52:32-55 et al.) <sup>1</sup>]; and

39 (13) provisions concerning the prohibited activities in Belarus  
40 and Russia pursuant to section 7 of P.L.2022, c.3 (C.52:32-60.2)]<sup>1</sup>.

41 d. Any contract made pursuant to this section may be awarded  
42 for a period of 24 consecutive months, except that contracts for  
43 professional services pursuant to paragraph (1) of subsection a. of  
44 N.J.S.18A:18A-5 may be awarded for a period not exceeding 12  
45 consecutive months.

46 (cf: P.L.2009, c.166, s.6)

1       3. N.J.S.18A:18A-4 is amended to read as follows:

2       18A:18A-4. a. Every contract for the provision or performance  
3 of any goods or services, the cost of which in the aggregate exceeds  
4 the bid threshold, shall be awarded only by resolution of the board  
5 of education to the lowest responsible bidder after public  
6 advertising for bids and bidding therefor, except as is provided  
7 otherwise in this chapter or specifically by any other law.

8       The board of education may, by resolution approved by a  
9 majority of the board of education and subject to subsections b. and  
10 c. of this section, disqualify a bidder who would otherwise be  
11 determined to be the lowest responsible bidder, if the board of  
12 education finds that any board or, in the case of a contract for a  
13 school facilities project, the New Jersey Economic Development  
14 Authority, has had prior negative experience with the bidder within  
15 the past 10 years, as reported in a contractor evaluation submitted  
16 pursuant to N.J.S.18A:18A-15 or in a school facilities project  
17 performance evaluation submitted pursuant to regulations of the  
18 Department of the Treasury or section 62 of P.L.2000, c.72  
19 (C.18A:7G-36), as appropriate.

20       b. As used in this section, "prior negative experience" means  
21 any of the following:

22       (1) the bidder has been found, through either court adjudication,  
23 arbitration, mediation, or other contractually stipulated alternate  
24 dispute resolution mechanism, to have: failed to provide or perform  
25 goods or services; or failed to complete the contract in a timely  
26 manner; or otherwise performed unsatisfactorily under a prior  
27 contract with a board of education or, in the case of a school  
28 facilities project, with the New Jersey Economic Development  
29 Authority;

30       (2) the bidder defaulted on a contract, thereby requiring a board  
31 of education or, in the case of a school facilities project, the New  
32 Jersey Economic Development Authority, to utilize the services of  
33 another contractor to provide the goods or perform the services or  
34 to correct or complete the contract;

35       (3) the bidder defaulted on a contract, thereby requiring a board  
36 of education or, in the case of a school facilities project, the New  
37 Jersey Economic Development Authority, to look to the bidder's  
38 surety for completion of the contract or tender of the costs of  
39 completion; or

40       (4) the bidder is debarred or suspended from contracting with  
41 any of the agencies or departments of the executive branch of the  
42 State of New Jersey at the time of the contract award, whether or  
43 not the action was based on experience with a board of education  
44 or, in the case of a school facilities project, with the New Jersey  
45 Economic Development Authority.

46       c. The following conditions apply if the board of education is  
47 contemplating a disqualification based on prior negative experience:

1 (1) The existence of any of the indicators of prior negative  
2 experience set forth in this section shall not require that a bidder be  
3 disqualified. In each instance, the decision to disqualify shall be  
4 made within the discretion of the board of education and shall be  
5 rendered in the best interests of the board of education.

6 (2) All mitigating factors shall be considered in determining the  
7 seriousness of the prior negative experience and in deciding  
8 whether disqualification is warranted.

9 (3) The bidder shall be furnished by the board of education with  
10 a written notice (a) stating that a disqualification is being  
11 considered; (b) setting forth the reason for the disqualification; and  
12 (c) indicating that the bidder shall be accorded an opportunity for a  
13 hearing before the board of education if the bidder so requests  
14 within a stated period of time. At the hearing, the bidder shall show  
15 good cause why the bidder should not be disqualified by presenting  
16 documents and testimony. If the board of education determines that  
17 good cause has not been shown by the bidder, it may vote to find  
18 the bidder lacking in responsibility and, thus, disqualified.

19 (4) Disqualification shall be for a reasonable, defined period of  
20 time which shall not exceed five years.

21 (5) A disqualification, other than a disqualification pursuant to  
22 which a board of education is prohibited by law from entering into a  
23 contract with a bidder, may be voided or the period thereof may be  
24 reduced, in the discretion of the board of education, upon the  
25 submission of a good faith application under oath, supported by  
26 documentary evidence, setting forth substantial and appropriate  
27 grounds for the granting of relief, such as reversal of a judgment, or  
28 actual change of ownership, management or control of the bidder.

29 (6) An opportunity for a hearing need not be offered to a bidder  
30 whose disqualification is based on its suspension or debarment by  
31 an agency or department of the executive branch of the State of  
32 New Jersey. The term of such a disqualification shall be concurrent  
33 with the term of the suspension or debarment by the State agency or  
34 department.

35 d. The purchase of text books and materials that exceed the bid  
36 threshold and are approved by a board of education pursuant to  
37 N.J.S.18A:34-1 shall not require the further adoption of a resolution  
38 for purchase.

39 e. Notwithstanding the provisions of this section to the  
40 contrary, prior to the procurement of any goods or services pursuant  
41 to this section, the purchasing agent shall determine if entering into  
42 a cooperative purchasing system, as defined in subsection ee. of  
43 N.J.S.18A:18A-2, for the procurement of the goods or services will  
44 result in cost savings. A cost savings analysis prescribed by the  
45 Division of Local Government Services in the Department of  
46 Community Affairs pursuant to section 10 of P.L. , c. (C. )  
47 (pending before the Legislature as this bill) shall include, but not be  
48 limited to, factors such as charges for service, materials, delivery,



1 soft costs, costs of acquisition, and other costs of traditional bidding  
2 such as cost overruns, protest, rework, and change orders. If the  
3 purchasing agent determines that entering into a cooperative  
4 purchasing system for the procurement of goods or services will  
5 result in cost savings, the board of education shall utilize a  
6 cooperative purchasing system<sup>1</sup>, unless the procurement is for new  
7 building construction or expansion<sup>1</sup>.

8 f. Prior to entering into a contract for the procurement of any  
9 goods or services, the board of education shall ensure that the  
10 contractor and any subcontractors are compliant with existing State  
11 and federal laws, rules, and regulations as enumerated in subsection  
12 c. of N.J.S.18A:18A-3.

13 (cf: P.L.2002, c.90, s.1)

14  
15 4. Section 45 of P.L.1999, c.440 (C.18A:18A-4.1) is amended  
16 to read as follows:

17 45. Notwithstanding the provisions of any law, rule or regulation  
18 to the contrary, competitive contracting may be used by boards of  
19 education in lieu of public bidding for procurement of specialized  
20 goods and services the price of which exceeds the bid threshold, for  
21 the following purposes:

22 a. The purchase or licensing of proprietary computer software  
23 designed for board of education purposes, which may include  
24 hardware intended for use with the proprietary software. This  
25 subsection shall not be utilized for the purpose of acquiring general  
26 purpose computer hardware or software;

27 b. The hiring of a for-profit entity or a not-for-profit entity  
28 incorporated under Title 15A of the New Jersey Statutes for the  
29 purpose of:

30 (1) the operation, management or administration of recreation or  
31 social service facilities or programs; or

32 (2) the operation, management or administration of data  
33 processing services;

34 c. Services performed by an organization engaged in providing  
35 energy conservation education and training services to train  
36 employees of a board of education to reduce consumption of  
37 energy;

38 d. Telecommunications transmission or switching services that  
39 are not part of a tariff or schedule of charges filed with the Board of  
40 Public Utilities;

41 e. The purchase of specialized machinery or equipment of a  
42 technical nature, or servicing thereof, which will not reasonably  
43 permit the drawing of specifications;

44 f. Food services provided by food service management  
45 companies when not part of programs administered by the New  
46 Jersey Department of Agriculture, Bureau of Child Nutrition  
47 Programs;

1 g. Driver education courses provided by licensed driver  
2 education schools;

3 h. At the option of the board of education, any good or service  
4 that is exempt from bidding pursuant to N.J.S.18A:18A-5;

5 i. Laboratory testing services;

6 j. Concessions;

7 k. The operation, management or administration of other  
8 services, with the approval of the Division of Local Government  
9 Services in the Department of Community Affairs.

10 Any purpose included herein shall not be considered by a board  
11 of education as an extraordinary unspecifiable service pursuant to  
12 paragraph (2) of subsection a. of N.J.S.18A:18A-5.

13 l. Notwithstanding the provisions of this section to the  
14 contrary, prior to the procurement of any goods or services pursuant  
15 to this section, the purchasing agent shall determine if entering into  
16 a cooperative purchasing system, as defined in subsection ee. of  
17 N.J.S.18A:18A-2, for the procurement of the goods or services will  
18 result in cost savings. A cost savings analysis prescribed by the  
19 Division of Local Government Services in the Department of  
20 Community Affairs pursuant to section 10 of P.L. , c. (C. )  
21 (pending before the Legislature as this bill) shall include, but not be  
22 limited to, factors such as charges for service, materials, delivery,  
23 soft costs, costs of acquisition, and other costs of traditional bidding  
24 such as cost overruns, protest, rework, and change orders. If the  
25 purchasing agent determines that entering into a cooperative  
26 purchasing system for the procurement of goods or services will  
27 result in cost savings, the board of education shall utilize a  
28 cooperative purchasing system<sup>1</sup>, unless the procurement is for new  
29 building construction or expansion<sup>1</sup>.

30 m. Prior to entering into a contract for the procurement of any  
31 goods or services, the board of education shall ensure that the  
32 contractor and any subcontractors are compliant with existing State  
33 and federal laws, rules, and regulations as enumerated in subsection  
34 c. of N.J.S.18A:18A-3.

35 (cf: P.L.2009, c.4, s.2)

36

37 5. N.J.S.18A:18A-11 is amended to read as follows:

38 18A:18A-11. a. The boards of education of two or more  
39 districts may provide jointly by agreement for the provision and  
40 performance of goods and services for their respective districts, or  
41 one or more boards of education may provide for such provision or  
42 performance of goods or services by joint agreement with the  
43 governing body of any municipality or county.

44 Any joint purchasing agreement between the boards of education  
45 of two or more school districts may include, as additional  
46 participating bodies, nonpublic schools located within the  
47 municipalities that comprise those school districts.

1 b. As used in this section, "nonpublic school" means an  
2 elementary or secondary school within the State, other than a public  
3 school, offering education for grades kindergarten through 12, or  
4 any combination of them, wherein any child may legally fulfill  
5 compulsory school attendance requirements and which complies  
6 with the requirements of Title VI of the Civil Rights Act of 1964,  
7 Pub.L.88-352 (42 U.S.C. s.2000d et seq.).

8 c. Notwithstanding the provisions of this section to the  
9 contrary, prior to the procurement of any goods or services pursuant  
10 to this section, the purchasing agent shall determine if entering into  
11 a cooperative purchasing system, as defined in subsection ee. of  
12 N.J.S.18A:18A-2, for the procurement of the goods or services will  
13 result in cost savings. A cost savings analysis prescribed by the  
14 Division of Local Government Services in the Department of  
15 Community Affairs pursuant to section 10 of P.L. , c. (C. )  
16 (pending before the Legislature as this bill) shall include, but not be  
17 limited to, factors such as charges for service, materials, delivery,  
18 soft costs, costs of acquisition, and other costs of traditional bidding  
19 such as cost overruns, protest, rework, and change orders. If the  
20 purchasing agent determines that entering into a cooperative  
21 purchasing system for the procurement of goods or services will  
22 result in cost savings, the board of education shall utilize a  
23 cooperative purchasing system<sup>1</sup>, unless the procurement is for new  
24 building construction or expansion<sup>1</sup>.

25 d. Prior to entering into a contract for the procurement of any  
26 goods or services, the board of education shall ensure that the  
27 contractor and any subcontractors are compliant with existing State  
28 and federal laws, rules, and regulations as enumerated in subsection  
29 c. of N.J.S.18A:18A-3.

30 (cf: P.L.2013, c.262, s.1)

31  
32 6. Section 2 of P.L.1971, c.198 (C.40A:11-2) is amended to  
33 read as follows:

34 2. As used herein the following words have the following  
35 definitions, unless the context otherwise indicates:

36 (1) "Contracting unit" means:

37 (a) Any county; **[or]**

38 (b) Any municipality; or

39 (c) Any board, commission, committee, authority or agency,  
40 which is not a State board, commission, committee, authority,  
41 except as provided pursuant to P.L.2013, c.4, or agency, and which  
42 has administrative jurisdiction over any district other than a school  
43 district, project, or facility, included or operating in whole or in  
44 part, within the territorial boundaries of any county or municipality  
45 which exercises functions which are appropriate for the exercise by  
46 one or more units of local government, including functions  
47 exercised in relation to the administration and oversight of a  
48 tourism district located in a municipality in which authorized casino

1 gaming occurs, and which has statutory power to make purchases  
2 and enter into contracts awarded by a contracting agent for the  
3 provision or performance of goods or services.

4 The term shall not include a private firm that has entered into a  
5 contract with a public entity for the provision of water supply  
6 services pursuant to P.L.1995, c.101 (C.58:26-19 et al.).

7 "Contracting unit" shall not include a private firm or public  
8 authority that has entered into a contract with a public entity for the  
9 provision of wastewater treatment services pursuant to P.L.1995,  
10 c.216 (C.58:27-19 et al.).

11 "Contracting unit" shall not include a duly incorporated nonprofit  
12 association that has entered into a contract with the governing body  
13 of a city of the first class for the provision of water supply services  
14 or wastewater treatment services pursuant to section 2 of P.L.2002,  
15 c.47 (C.40A:11-5.1).

16 "Contracting unit" shall not include an entity that has entered  
17 into a contract for management and operation services with a local  
18 hospital authority established pursuant to P.L.2006, c.46  
19 (C.30:9-23.15 et al.).

20 (2) "Governing body" means:

21 (a) The governing body of the county, when the purchase is to  
22 be made or the contract or agreement is to be entered into by, or on  
23 behalf of, a county; **[or]**

24 (b) The governing body of the municipality, when the purchase  
25 is to be made or the contract or agreement is to be entered into by,  
26 or on behalf of, a municipality; or

27 (c) Any board, commission, committee, authority or agency of  
28 the character described in subsection (1) (c) of this section.

29 (3) "Contracting agent" means the governing body of a  
30 contracting unit, or appointed membership of a State authority  
31 authorized to enter into a cooperative purchasing agreement  
32 pursuant to P.L.2013, c.4, or its authorized designee, which has the  
33 power to prepare the advertisements, to advertise for and receive  
34 bids and, as permitted by **[this act,]** the "Local Public Contracts  
35 Law," P.L.1971, c.198 (C.40A:11-1 et seq.), to make awards for the  
36 contracting unit in connection with purchases, contracts or  
37 agreements.

38 (4) "Purchase" means a transaction, for a valuable consideration,  
39 creating or acquiring an interest in goods, services and property,  
40 except real property or any interest therein.

41 (5) (Deleted by amendment, P.L.1999, c.440**[.]**)

42 (6) "Professional services" means services rendered or  
43 performed by a person authorized by law to practice a recognized  
44 profession, whose practice is regulated by law, and the performance  
45 of which services requires knowledge of an advanced type in a field  
46 of learning acquired by a prolonged formal course of specialized  
47 instruction and study as distinguished from general academic  
48 instruction or apprenticeship and training. Professional services

1 may also mean services rendered in the provision or performance of  
2 goods or services that are original and creative in character in a  
3 recognized field of artistic endeavor.

4 (7) "Extraordinary unspecifiable services" means services which  
5 are specialized and qualitative in nature requiring expertise,  
6 extensive training and proven reputation in the field of endeavor.

7 (8) (Deleted by amendment, P.L.1999, c.440[.])

8 (9) "Work" includes services and any other activity of a tangible  
9 or intangible nature performed or assumed pursuant to a contract or  
10 agreement with a contracting unit.

11 (10) "Homemaker--home health services" means at home  
12 personal care and home management provided to an individual or  
13 members of the individual's family who reside with the individual,  
14 or both, necessitated by the individual's illness or incapacity.  
15 "Homemaker--home health services" includes, but is not limited to,  
16 the services of a trained homemaker.

17 (11) "Recyclable material" means those materials which would  
18 otherwise become municipal solid waste, and which may be  
19 collected, separated or processed and returned to the economic  
20 mainstream in the form of raw materials or products.

21 (12) "Recycling" means any process by which materials which  
22 would otherwise become solid waste are collected, separated or  
23 processed and returned to the economic mainstream in the form of  
24 raw materials or products.

25 (13) "Marketing" means the sale, disposition, assignment, or  
26 placement of designated recyclable materials with, or the granting  
27 of a concession to, a reseller, processor, materials recovery facility,  
28 or end-user of recyclable material, in accordance with a district  
29 solid waste management plan adopted pursuant to P.L.1970, c.39  
30 (C.13:1E-1 et seq.) and shall not include the collection of such  
31 recyclable material when collected through a system of routes by  
32 local government unit employees or under a contract administered  
33 by a local government unit.

34 (14) "Municipal solid waste" means, as appropriate to the  
35 circumstances, all residential, commercial, and institutional solid  
36 waste generated within the boundaries of a municipality; or the  
37 formal collection of such solid wastes or recyclable material in any  
38 combination thereof when collected through a system of routes by  
39 local government unit employees or under a contract administered  
40 by a local government unit.

41 (15) "Distribution" (when used in relation to electricity) means  
42 the process of conveying electricity from a contracting unit that is a  
43 generator of electricity or a wholesale purchaser of electricity to  
44 retail customers or other end users of electricity.

45 (16) "Transmission" (when used in relation to electricity) means  
46 the conveyance of electricity from its point of generation to a  
47 contracting unit that purchases it on a wholesale basis for resale.

1 (17) "Disposition" means the transportation, placement, reuse,  
2 sale, donation, transfer, or temporary storage of recyclable materials  
3 for all possible uses except for disposal as municipal solid waste.

4 (18) "Cooperative marketing" means the joint marketing by two  
5 or more contracting units of the source separated recyclable  
6 materials designated in a district recycling plan required pursuant to  
7 section 3 of P.L.1987, c.102 (C.13:1E-99.13) pursuant to a written  
8 cooperative agreement entered into by the participating contracting  
9 units thereof.

10 (19) "Aggregate" means the sums expended or to be expended  
11 for the provision or performance of any goods or services in  
12 connection with the same immediate purpose or task, or the  
13 furnishing of similar goods or services, during the same contract  
14 year through a contract awarded by a contracting agent.

15 (20) "Bid threshold" means the dollar amount set in section 3 of  
16 P.L.1971, c.198 (C.40A:11-3), above which a contracting unit shall  
17 advertise for and receive sealed bids in accordance with procedures  
18 set forth in P.L.1999, c.440 (C.40A:11-4.1 et al.).

19 (21) "Contract" means any agreement, including but not limited  
20 to a purchase order or a formal agreement, which is a legally  
21 binding relationship enforceable by law, between a vendor who  
22 agrees to provide or perform goods or services and a contracting  
23 unit which agrees to compensate a vendor, as defined by and subject  
24 to the terms and conditions of the agreement. A contract also may  
25 include an arrangement whereby a vendor compensates a  
26 contracting unit for the vendor's right to perform a service, such as,  
27 but not limited to, operating a concession.

28 (22) "Contract year" means the period of 12 consecutive months  
29 following the award of a contract.

30 (23) "Competitive contracting" means the method described in  
31 sections 1 through 5 of P.L.1999, c.440 (C.40A:11-4.1 **[thru]**  
32 through C.40A:11-4.5) of contracting for specialized goods and  
33 services in which formal proposals are solicited from vendors;  
34 formal proposals are evaluated by the purchasing agent or counsel  
35 or administrator; and the governing body awards a contract to a  
36 vendor or vendors from among the formal proposals received.

37 (24) "Goods and services" or "goods or services" means any  
38 work, labor, commodities, equipment, materials, or supplies of any  
39 tangible or intangible nature, except real property or any interest  
40 therein, provided or performed through a contract awarded by a  
41 contracting agent, including goods and property subject to  
42 N.J.S.12A:2-101 et seq.

43 (25) "Library and educational goods and services" means  
44 textbooks, copyrighted materials, student produced publications and  
45 services incidental thereto, including but not limited to books,  
46 periodicals, newspapers, documents, pamphlets, photographs,  
47 reproductions, microfilms, pictorial or graphic works, musical  
48 scores, maps, charts, globes, sound recordings, slides, films,

1 filmstrips, video and magnetic tapes, other printed or published  
2 matter and audiovisual and other materials of a similar nature,  
3 necessary binding or rebinding of library materials, and specialized  
4 computer software used as a supplement or in lieu of textbooks or  
5 reference material.

6 (26) "Lowest price" means the least possible amount that meets  
7 all requirements of the request of a contracting agent.

8 (27) "Lowest responsible bidder or vendor" means the bidder or  
9 vendor: (a) whose response to a request for bids offers the lowest  
10 price and is responsive; and (b) who is responsible.

11 (28) "Official newspaper" means any newspaper designated by  
12 the contracting unit pursuant to R.S.35:1-1 et seq.

13 (29) "Purchase order" means a document issued by the  
14 contracting agent authorizing a purchase transaction with a vendor  
15 to provide or perform goods or services to the contracting unit,  
16 which, when fulfilled in accordance with the terms and conditions  
17 of a request of a contracting agent and other provisions and  
18 procedures that may be established by the contracting unit, will  
19 result in payment by the contracting unit.

20 (30) "Purchasing agent" means the individual duly assigned the  
21 authority, responsibility, and accountability for the purchasing  
22 activity of the contracting unit, and who has such duties as are  
23 defined by an authority appropriate to the form and structure of the  
24 contracting unit, pursuant to the "Local Public Contracts Law,"  
25 P.L.1971, c.198 (C.40A:11-1 et seq.) and who possesses a qualified  
26 purchasing agent certificate.

27 (31) "Quotation" means the response to a formal or informal  
28 request made by a contracting agent by a vendor for provision or  
29 performance of goods or services, when the aggregate cost is less  
30 than the bid threshold. Quotations may be in writing, or taken  
31 verbally if a record is kept by the contracting agent.

32 (32) "Responsible" means able to complete the contract in  
33 accordance with its requirements, including but not limited to  
34 requirements pertaining to experience, moral integrity, operating  
35 capacity, financial capacity, credit, and workforce, equipment, and  
36 facilities availability.

37 (33) "Responsive" means conforming in all material respects to  
38 the terms and conditions, specifications, legal requirements, and  
39 other provisions of the request.

40 (34) "Public works" means building, altering, repairing,  
41 improving, or demolishing any public structure or facility  
42 constructed or acquired by a contracting unit to house local  
43 government functions or provide water, waste disposal, power,  
44 transportation, and other public infrastructures.

45 (35) "Director" means the Director of the Division of Local  
46 Government Services in the Department of Community Affairs.

47 (36) "Administrator" means a municipal administrator appointed  
48 pursuant to N.J.S.40A:9-136 and N.J.S.40A:9-137; a business

1 administrator, a municipal manager or a municipal administrator  
2 appointed pursuant to the "Optional Municipal Charter Law,"  
3 P.L.1950, c.210 (C.40:69A-1 et seq.); a municipal manager  
4 appointed pursuant to "the municipal manager form of government  
5 law," R.S.40:79-1 et seq.; or the person holding responsibility for  
6 the overall operations of an authority that falls under the "Local  
7 Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et  
8 seq.).

9 (37) "Concession" means the granting of a license or right to act  
10 for or on behalf of the contracting unit, or to provide a service  
11 requiring the approval or endorsement of the contracting unit, and  
12 which may or may not involve a payment or exchange, or provision  
13 of services by or to the contracting unit.

14 (38) "Index rate" means the rate of annual percentage increase,  
15 rounded to the nearest half-percent, in the Implicit Price Deflator  
16 for State and Local Government Purchases of Goods and Services,  
17 computed and published quarterly by the United States Department  
18 of Commerce, Bureau of Economic Analysis.

19 (39) "Proprietary" means goods or services of a specialized  
20 nature, that may be made or marketed by a person or persons having  
21 the exclusive right to make or sell them, when the need for such  
22 goods or services has been certified in writing by the governing  
23 body of the contracting unit to be necessary for the conduct of its  
24 affairs.

25 (40) "Service or services" means the performance of work, or the  
26 furnishing of labor, time, or effort, or any combination thereof, not  
27 involving or connected to the delivery or ownership of a specified  
28 end product or goods or a manufacturing process. Service or  
29 services may also include an arrangement in which a vendor  
30 compensates the contracting unit for the vendor's right to operate a  
31 concession.

32 (41) "Qualified purchasing agent certificate" means a certificate  
33 granted by the director pursuant to section 9 of P.L.1971, c.198  
34 (C.40A:11-9).

35 (42) "Mistake" means, for a public works project, a clerical error  
36 that is an unintentional and substantial computational error or an  
37 unintentional omission of a substantial quantity of labor, material,  
38 or both, from the final bid computation.

39 (43) "Cooperative purchasing system" means a cooperative  
40 pricing system, joint purchasing system, commodity resale system,  
41 county cooperative contract purchasing system, or regional  
42 cooperative pricing system in which a local contracting unit, or in  
43 which two or more local contracting units, enter into a contract for  
44 the procurement of goods or services.

45 (cf: P.L.2016, c.55, s.8)



1       7. Section 3 of P.L.1971, c.198 (C.40A:11-3) is amended to  
2 read as follows:

3       3. a. When the cost or price of any contract awarded by the  
4 contracting agent in the aggregate does not exceed in a contract year  
5 the total sum of \$17,500, the contract may be awarded by a  
6 purchasing agent or other employee so designated by the governing  
7 body when so authorized by ordinance or resolution, as appropriate  
8 to the contracting unit, without public advertising for bids, except  
9 that the governing body of any contracting unit may adopt an  
10 ordinance or resolution to set a lower threshold for the receipt of  
11 public bids or the solicitation of competitive quotations. If a  
12 purchasing agent has been appointed, the governing body of the  
13 contracting unit may establish that the bid threshold may be up to  
14 \$25,000 or the threshold amount adjusted by the Governor pursuant  
15 to subsection c. of this section. Such authorization may be granted  
16 for each contract or by a general delegation of the power to  
17 negotiate and award such contracts pursuant to this section.

18       b. Any contract made pursuant to this section may be awarded  
19 for a period of 24 consecutive months, except that contracts for  
20 professional services pursuant to subparagraph (i) of paragraph (a)  
21 of subsection (1) of section 5 of P.L.1971, c.198 (C.40A:11-5) may  
22 be awarded for a period not exceeding 12 consecutive months. The  
23 Division of Local Government Services shall adopt and promulgate  
24 rules and regulations concerning the methods of accounting for all  
25 contracts that do not coincide with the contracting unit's fiscal year.

26       c. The Governor, in consultation with the Department of the  
27 Treasury, shall, no later than March 1 of every fifth year beginning  
28 in the fifth year after the year in which P.L.1999, c.440  
29 (C.40A:11-4.1 et al) takes effect, adjust the threshold amount, in  
30 direct proportion to the rise or fall of the index rate as that term is  
31 defined in section 2 of P.L.1971, c.198 (C.40A:11-2), and shall  
32 round the adjustment to the nearest \$1,000. The Governor shall, no  
33 later than June 1 of every fifth year, notify each governing body of  
34 the adjustment. The adjustment shall become effective on July 1 of  
35 the year in which it is made.

36       d. Prior to entering into a contract for the procurement of any  
37 goods or services, the contracting unit shall ensure that the  
38 contractor and any subcontractors are complaint with existing State  
39 and federal laws, rules, and regulations concerning:

40       (1) the antidiscrimination provisions of R.S.10:2-1 through  
41 R.S.10:2-4;

42       (2) the "Law Against Discrimination," P.L.1945, c.169  
43 (C.10:5-1 et seq.);

44       (3) the antidiscrimination, equal employment opportunity, and  
45 affirmative action provisions applicable pursuant to P.L.1975, c.127  
46 (C.10:5-31 et seq.);

47       (4) business registration requirements pursuant to P.L.2001,  
48 c.134 (C.52:32-44 et al.);

1       (5) the contribution restriction provisions pursuant P.L.2005,  
2 c.51 (C.19:44A-20.13 et seq.);

3       (6) prevailing wage requirements pursuant to P.L.1963, c.150  
4 (C.34:11-56.25 et seq.);

5       (7) the provisions of the "Sales and Use Tax Act," P.L.1966,  
6 c.30 (C.54:32B-1 et seq.)

7       (8) the American goods sourcing provisions of section 18 of  
8 P.L.1971, c.198 (C.40A:11-18);

9       (9) valid classification in a trade as issued by the Division of  
10 Property Management and Construction in the Department of  
11 Treasury;

12       (10) submission of a sworn contractor certification pursuant to  
13 section 63 of P.L.2000, c.72 (C.18A:7G-37);

14       (11) compliance by local government officers and employees  
15 pursuant to section 5 of P.L.1991, c.29 (C.40A:9-22.5); <sup>1</sup>and<sup>1</sup>

16       (12) provisions concerning the disclosure of investment activities  
17 in Iran pursuant to P.L.2012, c.25 (C.52:32-55 et al.) <sup>1</sup>]; and

18       (13) provisions concerning the prohibited activities in Belarus  
19 and Russia pursuant to section 7 of P.L.2022, c.3 (C.52:32-60.2) <sup>1</sup>.  
20 (cf: P.L.2009, c.166, s.2)

21  
22       8. Section 4 of P.L.1971, c.198 (C.40A:11-4) is amended to  
23 read as follows:

24       4. a. Every contract awarded by the contracting agent for the  
25 provision or performance of any goods or services, the cost of  
26 which in the aggregate exceeds the bid threshold, shall be awarded  
27 only by resolution of the governing body of the contracting unit to  
28 the lowest responsible bidder after public advertising for bids and  
29 bidding therefor, except as is provided otherwise in this act or  
30 specifically by any other law. The governing body of a contracting  
31 unit may, by resolution approved by a majority of the governing  
32 body and subject to subsections b. and c. of this section, disqualify  
33 a bidder who would otherwise be determined to be the lowest  
34 responsible bidder, if the governing body finds that it has had prior  
35 negative experience with the bidder.

36       b. As used in this section, "prior negative experience" means  
37 any of the following:

38       (1) the bidder has been found, through either court adjudication,  
39 arbitration, mediation, or other contractually stipulated alternate  
40 dispute resolution mechanism, to have: failed to provide or perform  
41 goods or services; or failed to complete the contract in a timely  
42 manner; or otherwise performed unsatisfactorily under a prior  
43 contract with the contracting unit;

44       (2) the bidder defaulted on a contract, thereby requiring the  
45 local unit to utilize the services of another contractor to provide the  
46 goods or perform the services or to correct or complete the contract;

1 (3) the bidder defaulted on a contract, thereby requiring the  
2 local unit to look to the bidder's surety for completion of the  
3 contract or tender of the costs of completion; or

4 (4) the bidder is debarred or suspended from contracting with  
5 any of the agencies or departments of the executive branch of the  
6 State of New Jersey at the time of the contract award, whether or  
7 not the action was based on experience with the contracting unit.

8 c. The following conditions apply if the governing body of a  
9 contracting unit is contemplating a disqualification based on prior  
10 negative experience:

11 (1) The existence of any of the indicators of prior negative  
12 experience set forth in this section shall not require that a bidder be  
13 disqualified. In each instance, the decision to disqualify shall be  
14 made within the discretion of the governing body and shall be  
15 rendered in the best interests of the contracting unit.

16 (2) All mitigating factors shall be considered in determining the  
17 seriousness of the prior negative experience and in deciding  
18 whether disqualification is warranted.

19 (3) The bidder shall be furnished by the governing body with a  
20 written notice (a) stating that a disqualification is being considered;  
21 (b) setting forth the reason for the disqualification; and (c)  
22 indicating that the bidder shall be accorded an opportunity for a  
23 hearing before the governing body if the bidder so requests within a  
24 stated period of time. At the hearing, the bidder shall show good  
25 cause why the bidder should not be disqualified by presenting  
26 documents and testimony. If the governing body determines that  
27 good cause has not been shown by the bidder, it may vote to find  
28 the bidder lacking in responsibility and, thus, disqualified.

29 (4) Disqualification shall be for a reasonable, defined period of  
30 time which shall not exceed five years.

31 (5) A disqualification, other than a disqualification pursuant to  
32 which a governing body is prohibited by law from entering into a  
33 contract with a bidder, may be voided or the period thereof may be  
34 reduced, in the discretion of the governing body, upon the  
35 submission of a good faith application under oath, supported by  
36 documentary evidence, setting forth substantial and appropriate  
37 grounds for the granting of relief, such as reversal of a judgment, or  
38 actual change of ownership, management or control of the bidder.

39 (6) An opportunity for a hearing need not be offered to a bidder  
40 whose disqualification is based on its suspension or debarment by  
41 an agency or department of the executive branch of the State of  
42 New Jersey. The term of such a disqualification shall be concurrent  
43 with the term of the suspension or debarment by the State agency or  
44 department.

45 d. Notwithstanding the provisions of this section to the  
46 contrary, prior to the procurement of any goods or services pursuant  
47 to this section, the purchasing agent shall determine if entering into  
48 a cooperative purchasing system, as defined in section 2 of

1 P.L.1971, c.198 (C.40A:11-2), for the procurement of the goods or  
2 services will result in cost savings. A cost savings analysis  
3 prescribed by the Division of Local Government Services in the  
4 Department of Community Affairs pursuant to section 10 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
6 include, but not be limited to, factors such as charges for service,  
7 materials, delivery, soft costs, costs of acquisition, and other costs  
8 of traditional bidding such as cost overruns, protest, rework, and  
9 change orders. If the purchasing agent determines that entering into  
10 a cooperative purchasing system for the procurement of goods or  
11 services will result in cost savings, the contracting unit shall utilize  
12 a cooperative purchasing system<sup>1</sup>, unless the procurement is for  
13 new building construction or expansion<sup>1</sup>.

14 e. Prior to entering into a contract for the procurement of any  
15 goods or services, the contracting unit shall ensure that the  
16 contractor and any subcontractors are compliant with existing State  
17 and federal laws, rules, and regulations as enumerated in subsection  
18 d. of section 3 of P.L.1971, c.198 (C.40A:11-3).  
19 (cf: P.L.1999, c.440, s.8)

20

21 9. Section 1 of P.L.1999, c.440 (C.40A:11-4.1) is amended to  
22 read as follows:

23 1. Notwithstanding the provisions of any law, rule, or  
24 regulation to the contrary, competitive contracting may be used by  
25 local contracting units in lieu of public bidding for procurement of  
26 specialized goods and services the price of which exceeds the bid  
27 threshold, for the following purposes:

28 a. The purchase or licensing of proprietary computer software  
29 designed for contracting unit purposes, which may include  
30 hardware intended for use with the proprietary software. This  
31 subsection shall not be utilized for the purpose of acquiring general  
32 purpose computer hardware or software;

33 b. The hiring of a for-profit entity or a not-for-profit entity  
34 incorporated under Title 15A of the New Jersey Statutes for the  
35 purpose of:

36 (1) the operation and management of a wastewater treatment  
37 system, a stormwater management system, or a water supply or  
38 distribution facility of the type described in subsection (37) of  
39 section 15 of P.L.1971, c.198 (C.40A:11-15), provided that  
40 competitive contracting shall not be used as a means of awarding  
41 contracts pursuant to P.L.1985, c.37 (C.58:26-1 et al.) and  
42 P.L.1985, c.72 (C.58:27-1 et al.);

43 (2) the operation, management or administration of recreation or  
44 social service facilities or programs, which shall not include the  
45 administration of benefits under the Work First New Jersey  
46 program established pursuant to P.L.1997, c.38 (C.44:10-55 et  
47 seq.), or under General Assistance;

- 1 (3) the operation, management or administration of data  
2 processing services; or
- 3 (4) the operation and management of a county hospital pursuant  
4 to the "Local Hospital Authority Law," P.L.2006, c.46 (C.30:9-  
5 23.15 et al.);
- 6 c. (Deleted by amendment, P.L.2009, c.4)
  - 7 d. Homemaker--home health services;
  - 8 e. Laboratory testing services;
  - 9 f. Emergency medical services;
  - 10 g. Contracted food services;
  - 11 h. Performance of patient care services by contracted medical  
12 staff at county hospitals, correctional facilities and long-term care  
13 facilities;
  - 14 i. At the option of the governing body of the contracting unit,  
15 any good or service that is exempt from bidding pursuant to section  
16 5 of P.L.1971, c.198 (C.40A:11-5);
  - 17 j. Concessions;
  - 18 k. The operation, management or administration of other  
19 services, with the approval of the Director of the Division of Local  
20 Government Services;
  - 21 l. Maintenance, custodial, and groundskeeping services;
  - 22 m. Consulting services;
  - 23 n. Emergency medical billing services;
  - 24 o. Property appraisal services;
  - 25 p. Reassessment or revaluation services;
  - 26 q. Grant writing services;
  - 27 r. Animal control services;
  - 28 s. Private on-site inspection agency services, as may be  
29 authorized by rules and regulations adopted by the Department of  
30 Community Affairs.

31 Any purpose included herein shall not be considered by a  
32 contracting unit as an extraordinary unspecifiable service pursuant  
33 to subparagraph (ii) of paragraph (a) of subsection (1) of section 5  
34 of P.L.1971, c.198 (C.40A:11-5).

35 As used in this section, "stormwater management system" means  
36 the same as that term is defined in section 3 of P.L.2019, c.42  
37 (C.40A:26B-3).

38 Notwithstanding the provisions of this section to the contrary,  
39 prior to the procurement of any goods or services pursuant to this  
40 section, the purchasing agent shall determine if entering into a  
41 cooperative purchasing system, as defined in section 2 of P.L.1971,  
42 c.198 (C.40A:11-2), for the procurement of the goods or services  
43 will result in cost savings. A cost savings analysis prescribed by  
44 the Division of Local Government Services in the Department of  
45 Community Affairs pursuant to section 10 of P.L. , c. (C. )  
46 (pending before the Legislature as this bill) shall include, but not be  
47 limited to, factors such as charges for service, materials, delivery,  
48 soft costs, costs of acquisition, and other costs of traditional bidding

1 such as cost overruns, protest, rework, and change orders. If the  
2 purchasing agent determines that entering into a cooperative  
3 purchasing system for the procurement of goods or services will  
4 result in cost savings, the contracting unit shall utilize a cooperative  
5 purchasing system<sup>1</sup>, unless the procurement is for new building  
6 construction or expansion<sup>1</sup>.

7 Prior to entering into a contract for the procurement of any goods  
8 or services, the contracting unit shall ensure that the contractor and  
9 any subcontractors are compliant with existing State and federal  
10 laws, rules, and regulations as enumerated in subsection d. of  
11 section 3 of P.L.1971, c.198 (C.40A:11-3).

12 (cf: P.L.2022, c.139, s.3)

13

14 10. (New section) a. Notwithstanding any law, rule, or  
15 regulation to the contrary, the Director of the Division of Local  
16 Government Services in the Department of Community Affairs, in  
17 consultation with the Commissioner of Education, shall develop  
18 harmonized guidelines for a local contracting unit, including a  
19 board of education, to enter into cooperative purchasing systems.

20 b. The cooperative purchasing system guidelines developed  
21 pursuant to subsection a. of this section shall include, but not be  
22 limited to:

23 (1) the types of goods and services, including work, labor,  
24 commodities, equipment, materials, or supplies of any tangible or  
25 intangible nature, except real property or any interest therein, that  
26 may be procured through a contract awarded by a contracting agent  
27 under a cooperative purchasing system, including goods and  
28 property subject to N.J.S.12A:2-101 et seq.;

29 (2) the requirements concerning the process for advertising and  
30 soliciting bids for contracts through a cooperative purchasing  
31 system, and the factors that shall be utilized in the awarding of  
32 contracts;

33 (3) provisions ensuring local contracting units enter into  
34 contracts for the procurement of goods or services through a  
35 cooperative purchasing system with contractors and subcontractors  
36 that are compliant with existing State and federal laws, rules, and  
37 regulations as enumerated in subsection d. of N.J.S.18A:18A-3 and  
38 subsection e. of section 3 of P.L.1971, c.198 (C.40A:11-3); and

39 (4) information outlining the benefits of entering into  
40 cooperative purchasing systems, including but not limited to: cost-  
41 savings for the procurement of goods and services; access to  
42 experienced and reliable contractors and subcontractors;  
43 improvements in project execution time; elimination of pre-bid  
44 costs; and guaranteed maximum pricing to eliminate unforeseen  
45 expenses.

46 c. The division shall distribute the guidelines developed  
47 pursuant to subsection a. of this section to the governing body of  
48 each municipality, county, and school district in this State.

1 d. The division shall publish the cooperative purchasing system  
2 guidelines developed pursuant to subsection a. of this section on the  
3 division's Internet website in an easily accessible location and  
4 format.

5 e. The division shall develop a cost savings analysis template  
6 comparing the costs of cooperative purchasing systems and other  
7 methods of procurement including, but not limited to, factors such  
8 as charges for service, materials, delivery, soft costs, costs of  
9 acquisition, and other costs of traditional bidding such as cost  
10 overruns, protest, rework, and change orders. The division shall:

11 (1) distribute the template to the governing body of each  
12 municipality, county, and school district in this State; and

13 (2) publish the cost savings analysis template on the division's  
14 Internet website in an easily accessible location and format.

15 f. As used in this section:

16 "Cooperative purchasing system" means a cooperative pricing  
17 system, joint purchasing system, commodity resale system, county  
18 cooperative contract purchasing system, or regional cooperative  
19 pricing system in which a local contracting unit, or in which two or  
20 more local contracting units, enter into a contract for the  
21 procurement of goods or services.

22 "Local contracting unit" means a board of education, as defined  
23 in and subject to the provisions of the "Public School Contracts  
24 Law," N.J.S.18A:18A-1 et seq., or a local contracting unit, as  
25 defined in and subject to the provisions of the "Local Public  
26 Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

27

28 11. This act shall take effect immediately.