

CHAPTER 180

AN ACT concerning the eligibility for public works contracts of certain legal entities and supplementing Title 52 of the Revised Statutes and amending various parts of statutory law.

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

1. Section 14 of P.L.1963, c.150 (C.34:11-56.38) is amended to read as follows:

C.34:11-56.38 Prohibition against award of contract to non-complying contractors; definition; presumption.

14. The public body awarding any contract for public work, or otherwise undertaking any public work, or entering into a lease or agreement to lease pursuant to which public work is to be done, shall first ascertain from the commissioner the list of names of contractors or subcontractors who have failed to pay prevailing wages as determined in section 13 of P.L.1963, c.150 (C.34:11-56.37), and no contract shall be awarded to such contractor or subcontractor, or to any firm, cooperative, corporation, or partnership in which such contractor or subcontractor has an interest until three years have elapsed from the date of listing as determined in section 13 of P.L.1963, c.150 (C.34:11-56.37).

For purposes of this section, "cooperative" shall mean a system of collective ownership of a corporation or other legal entity in which the shareholders or other co-owners each also have a long term proprietary interest or other long term arrangement of control over the operations of the business.

For purposes of this section, "vendor" shall mean any person, firm, corporation, or other entity which provides or offers or proposes to provide goods or services to or perform any contract.

For purposes of this section, "interest" shall mean an interest in the firm, corporation, or partnership bidding on or performing public work, whether having the interest as an owner, partner, officer, manager, employee, agent, vendor, consultant, or representative. The term may also include, but not be limited to, all instances in which the contractor or subcontractor listed by the commissioner under section 13 of P.L.1963, c.150 (C.34:11-56.37) has received payments, whether those payments are in the form of cash or any other form of compensation from the firm, corporation, or partnership, or when the contractor or subcontractor listed by the commissioner under section 13 of P.L.1963, c.150 (C.34:11-56.37) has entered into any contract or agreement with the firm, corporation, or partnership for services performed or to be performed, for services that have been or will be assigned or subletted, or for the sale, rental, or lease of vehicles, tools, equipment, or supplies during the period from the initiation of the proceedings under section 13 of P.L.1963, c.150 (C.34:11-56.37) against the contractor or subcontractor until three years have elapsed from the date that the contractor or subcontractor has been listed by the commissioner under section 13 of P.L.1963, c.150 (C.34:11-56.37). The term "interest" shall not include shares held in a publicly traded corporation if the shares were not received as compensation after the initiation of proceedings under section 13 of P.L.1963, c.150 (C.34:11-56.37) from a firm, corporation, or partnership bidding or performing public work.

A rebuttable presumption that a contractor or subcontractor listed by the commissioner under section 13 of P.L.1963, c.150 (C.34:11-56.37) has an interest in another firm, corporation or partnership may arise if the two share any of the following capacities or characteristics: (1) perform similar work within the same geographical area and within the same monetary range, (2) occupy the same premises, (3) have the same telephone number or fax number, (4) have the same email address or internet website, (5) employ substantially the same administrative employees, (6) utilize the same tools and equipment, (7) employ or engage the services of any listed person or persons involved in the direction or control of the other, or (8) list substantially

the same work experience in order to obtain the requisite pre-qualification rating from the Department of the Treasury, or any other entity, to participate in any public work.

If a rebuttable presumption has arisen that a contractor or subcontractor listed by the commissioner under section 13 of P.L.1963, c.150 (C.34:11-56.37) has an interest in another firm, corporation or partnership, the adversely affected contractor or subcontractor, including the firm, corporation, or partnership, which would by virtue of a finding of "interest" be prevented under this section from being awarded public work, may request a hearing, which shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. Section 7 of P.L.1996, c.16 (C.52:34-6.2) is amended to read as follows:

C.52:34-6.2 Cooperative purchasing agreements with other states for purchases of goods, services; rules, regulations.

7. a. Notwithstanding the provisions of any other law to the contrary except the provisions of R.S.30:4-95, and as an alternative to the procedures concerning the awarding of public contracts provided in P.L.1954, c.48 (C.52:34-6 et seq.), the Director of the Division of Purchase and Property in the Department of the Treasury may enter into cooperative purchasing agreements with one or more other states, or political subdivisions thereof, for the purchase of goods and services. A cooperative purchasing agreement shall allow the jurisdictions which are parties thereto to standardize and combine their requirements for the purchase of a particular good or service into a single contract solicitation which shall be competitively bid and awarded by one of the jurisdictions on behalf of jurisdictions participating in the contract.

b. (1) The director may elect to purchase goods or services through a contract awarded pursuant to a cooperative purchasing agreement whenever the director determines this to be the most cost-effective method of procurement. Prior to entering into any contract to be awarded or already awarded through a cooperative purchasing agreement, the director shall review and approve the specifications and proposed terms and conditions of the contract.

(2) The director may also elect to purchase goods or services through a contract awarded pursuant to a nationally recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process, in which other states participate, whenever the director determines this to be the most cost-effective method of procurement. Prior to entering into any contract to be awarded through a nationally recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process, the director shall review and approve the specifications and proposed terms and conditions of the contract.

(3) Notwithstanding any other law to the contrary, any contracting unit authorized to purchase goods, or to contract for services, may make purchases and contract for services through the use of a nationally recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process by another contracting unit within the State of New Jersey, or within any other state, when available. A contracting unit may only purchase and contract for construction services for a public works project through a cooperative purchasing agreement competitively bid in compliance with P.L.2025, c.180 (C.52:34-6.2a et al.) and let by a contracting unit in the State of New Jersey. Public works projects undertaken by a contracting unit through a cooperative purchasing agreement are subject to the "Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.) and the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

Prior to making purchases or contracting for services, the contracting unit shall determine that the use of the cooperative purchasing agreement shall result in cost savings after all factors, including charges for service, material, and delivery, have been considered. The use of nationally recognized and accepted cooperative purchasing agreements by a contracting unit as defined in the “Local Public Contracts Law,” P.L.1971, c.198 (C.40A:11-1 et seq.), a board of education as defined in the “Public School Contracts Law,” P.L.1977, c.114 (C.18A:18A-1 et seq.), or a county college as defined in the “County College Contracts Law,” P.L.1982, c.189 (C.18A:64A-25.1 et seq.) shall be subject to such rules and regulations as may be adopted and promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs in consultation with the Director of the Division of Purchase and Property, the Commissioner of Education, and the Secretary of Higher Education.

(4) A contracting unit shall not utilize a time-and-materials contract available through a cooperative purchasing agreement for public works construction projects subject to the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et seq.).

(5) For the purposes of prevailing wage enforcement, a contracting unit that awards a cooperative contract for public works construction shall verify and maintain an accurate copy of:

(a) the name, principal business address in the State, and telephone number of the contractor; or

(b) if the contractor's principal business address is not within the State, the name and address of the contractor's custodian of records and agent for service of process in this State.

(6) A contracting unit that establishes a cooperative purchasing agreement for public works construction shall require awarded contractors to submit copies of the certified payroll records for every public works construction project performed under the contract and retain those copies for a period of not less than three years. Contractors shall be prohibited from performing public works projects under a cooperative purchasing agreement if they:

(a) fail to provide copies of submitted certified payroll records on more than three occasions; or

(b) are found to have violated the “New Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et seq.) by the Department of Labor and Workforce Development.

(7) The contracting unit that lets a cooperative contract shall publicly post on its website upon award the following information for all public works construction projects:

(a) the contracting unit where the project will be completed;

(b) the contract number of the cooperative contract utilized;

(c) the contractor performing the public works construction project;

(d) the cost of the project; and

(e) confirmation certified payroll records are received.

(8) Contracting units implementing a cooperative purchasing agreement shall solicit from the Commissioner of Labor and Workforce Development the list produced and maintained pursuant to P.L.1963, c.150 (C.34:11-56.37) and shall:

(a) not award a cooperative contract to a contractor or subcontractor listed by the commissioner;

(b) verify on a monthly basis after the time of award and for the duration of the contract term that any contractor or subcontractor awarded a cooperative contract was not added to the list by the commissioner;

(c) terminate a contract with a contractor or subcontractor listed by the commissioner after the time of the cooperative contract award; and

(d) cause a contractor to terminate a subcontract with a subcontractor listed by the commissioner after the time of the cooperative contract award.

(9) The Director of the Division of Local Government Services in the Department of Community Affairs shall prohibit a contracting unit from serving as a lead agency for a cooperative purchasing agreement if the contracting unit fails to comply with the requirements of this section.

(10) If any provision of P.L.2025, c.180 (C.52:34-6.2a et al.) or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of P.L.2025, c.180 (C.52:34-6.2a et al.) which can be given effect without the invalid provision or application, and to this end the provisions of P.L.2025, c.180 (C.52:34-6.2a et al.) are severable.

For purposes of this section, "contracting unit" means any county, municipality, special district, school district, fire district, State college or university, public research university, county college, or any board, commission, committee, authority, or agency, which is not a State board, commission, committee, authority, or agency, and which has administrative jurisdiction over any district, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services, and the New Jersey Transit Corporation created pursuant to P.L.1979, c.150 (C.27:25-1 et seq.).

For purposes of this section, "time-and-materials contract" means a contract for the actual costs for materials and acquiring services on the basis of direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit.

c. The director may solicit bids and award contracts on behalf of this State and other jurisdictions which are parties to a cooperative purchasing agreement provided that the agreement specifies that each jurisdiction participating in a contract is solely responsible for the payment of the purchase price and cost of purchases made by it under the terms of any contract awarded pursuant to the agreement.

d. The director may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), which are necessary to effectuate the purposes of this section.

C.52:34-6.2a Indefinite delivery, indefinite quantity contracts without final plans, specifications for individual projects.

3. a. Notwithstanding any provision of law to the contrary, a contracting unit may award indefinite delivery, indefinite quantity contracts with a set term for goods or services, including public works, without final plans and specifications for an individual project, provided the contract advertisement promotes free, open, and competitive bidding and sets forth the process by which individual purchase orders may be issued. A contracting unit may issue purchase orders under an indefinite delivery, indefinite quantity contract, provided the items for delivery were specified in the contract advertisement and a process for adding items for delivery is provided in the contract advertisement.

b. The award of an indefinite delivery, indefinite quantity contract by a contracting unit as defined in the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), a board of education as defined in the "Public School Contracts Law," P.L.1977, c.114 (C.18A:18A-1 et seq.), or a county college as defined in the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.) shall be subject to such rules and regulations as may be adopted and promulgated by the Director of the Division of Local Government Services in the Department of Community Affairs after consultation with the Commissioner of Education and the Secretary of Higher Education.

4. This act shall take effect 90 days following the date of enactment.

Approved December 23, 2025.