

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD MEETING  
WEDNESDAY, APRIL 3, 2019 AT 9:00 A.M.  
32 E. FRONT STREET, TRENTON, NJ  
BOARD ROOM**

**1. NOTICE OF PUBLIC MEETING**

**2. ROLL CALL**

**3. PLEDGE OF ALLEGIANCE**

**4. APPROVAL OF MEETING MINUTES**

- a. Board Open Session Meeting Minutes of March 6, 2019

**5. AUTHORITY MATTERS**

- a. CEO Report
- b. Chairman's Report

**6. REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)**

- a. Company Name: Epic Management, Inc.  
District: Newark Public Schools District  
Contract No.: GP-0231-C18  
Package No.: EP-0102-C01  
PMF/CM: NJSDA Self-Managed  
School Name: Luis Munoz Marin School  
Change Order No.: 3  
Reason: Unforeseen Condition  
Amount: \$17,533  
Time Extension: 0 Days  
Contract Status: 0.00% Paid to date against the Current Total Contract value  
Occupancy Date: NA
- b. Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procurement of Architects, Engineers, Land Surveyors and other Professional Services Consultants, N.J.A.C. 19:38C
- c. Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procurement of Goods and Services, N.J.A.C. 19:38D

**7. MONTHLY REPORTS**

- a. *For Informational Purposes*
  - i. Active Projects Report
  - ii. Project Close Out Status Report
  - iii. Project Status Reports
  - iv. Contracts Executed Report/Amendments & Change Orders Executed Report
  - v. Contract Terminations Report (*no activity*)
  - vi. Settlement Activities Report (*no activity*)
  - vii. Contractor and Workforce Compliance Report

- viii. Regular Operating District Grant Activity Report
- ix. Notification of Amendments to Goods and Services Contracts Not Exceeding \$100,000 or 10% of the Contract Value (*no activity*)
- x. Communications Report
- xi. Monthly Financial Report
- xii. Design Contract De-Obligations Report (*no activity*)

**8. PUBLIC COMMENTS**

**9. NO EXECUTIVE SESSION**

- a. Litigation/Contract Matter(s) – OPMA Exemption N.J.S.A. 10:4-12b (7)  
CCD Report (*no activity*)

**10. ADJOURNMENT**

**APPROVAL OF MEETING MINUTES**

**MARCH 6, 2019 OPEN SESSION**

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
BOARD OF DIRECTORS MEETING  
WEDNESDAY, MARCH 6, 2019**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, March 6, 2019 at 9:00 A.M. at the offices of the Authority at 32 East Front Street, Trenton, New Jersey.

Participating were:

- Robert Nixon, Chairman
- David Moore (Treasury)
- Bernard Piaia (DOE)
- Donna Sullivan (EDA)
- Kevin Luckie (DCA)
- Kevin Egan
- Richard Elbert
- Loren Lemelle
- Lester Lewis-Powder
- Michael Maloney
- Mario Vargas

being all the Members of the Board. Mr. Nixon, Mr. Egan, Mr. Elbert, Ms. Lemelle, Mr. Lewis-Powder, Mr. Luckie, Mr. Moore, and Mr. Piaia participated in the meeting by teleconference.

At the Chairman's request, Lizette Delgado Polanco, chief executive officer; Roy Garcia, chief of staff; Andrew Yosha, chief operating officer; Jane F. Kelly, vice president and assistant secretary; Donald Guarriello, vice president and chief financial officer; Manuel Da Silva, vice president; Thomas Schrum, vice president; Pamela Luster, vice president; Patricia Cabrera, deputy chief of staff; and Albert Barnes, chief counsel of the SDA, participated in the meeting.

The meeting was called to order by Mr. Nixon, who requested that Ms. Kelly read the requisite notice of the meeting. Ms. Kelly announced that the meeting notice had been sent to the

*Trenton Times* and *Star-Ledger* at least 48 hours prior to the meeting, and had been duly posted on the Secretary of State's bulletin board at 20 West State Street in Trenton, New Jersey. Ms. Kelly then conducted a roll call and indicated that a quorum of the Members was present.

### ***Pledge of Allegiance***

Led by the Chairman, the Members and all assembled recited the Pledge of Allegiance.

### ***Approval of Meeting Minutes***

The Chairman presented for consideration and approval the minutes of the Board's February 6, 2019 Open Session meeting. A copy of the meeting minutes and a resolution had been provided to the Members for review in advance of the meeting. Upon motion duly made by Mr. Vargas and seconded by Mr. Piaia, the Open Session meeting minutes of the February 6, 2019 SDA Board meeting were approved by the Board upon its unanimous vote in favor of the resolution attached hereto as ***Resolution 4a***.

### ***Authority Matters***

### ***Chairman's Report***

The Chairman apologized for not being able to attend today's meeting in person as he is speaking at a conference at 10:00 this morning. He advised that he will turn the meeting over to Vice Chairman Vargas at approximately 9:40 a.m. Mr. Nixon said the SDA was established to build clean, accessible and modern schools for children across New Jersey. He emphasized that it is unfair for any child to go to school in a substandard, unhealthy and dangerous environment. He said that the passion and commitment of SDA's employees is to correct that reality. He said that the SDA has changed lives and neighborhoods and that this should be celebrated. He added that the Board applauds SDA staff for what they do and why they do it. He said that it is unfortunate that, over the last few weeks, talk of the SDA has focused on other issues. The Chairman said that, fortunately, this has not prevented the Authority from continuing its work

building schools and making a difference. He said that the Board owes it to the staff and to the school districts that SDA serves to address these issues and keep the Authority headed in the right direction. He reported that, following a meeting with the Audit Committee and audit professionals over the last few weeks, he directed that a Human Resources audit be conducted immediately to study the payroll and hiring policies of the SDA. He said that this process has already started and he appreciates the work of the professionals who are engaged in it. He advised that the Audit Committee and the Board will be updated on the progress of the review and he is certain that, should recommendations be made, the management team will address them. He said that the SDA must focus now and in the future on building schools and anything that distracts from this must be corrected. He asked for the support of the Members as this process unfolds.

### ***CEO Report***

Mr. Nixon asked Chief Executive Officer (CEO) Lizette Delgado Polanco for the Report of the CEO. Ms. Delgado Polanco thanked Mr. Nixon for his comments and his leadership in serving on the Board and thanked all of the Members for their service. Ms. Delgado Polanco began her report with an update on projects in design. She said for the Camden HS project, Ernest Bock & Sons was issued a notice-to-proceed (NTP) with site work. She added that CBRE Heery was issued a NTP for construction management (CM) services the previous month.

With respect to projects in the procurement state, the CEO reported that general construction (GC) services bids for the Orange Cleveland ES and Orange HS projects were reviewed and recommendations for award are on today's agenda.

Next, Ms. Delgado Polanco gave an update on the Harrison New ES project. She reported that structural steel construction is complete. She advised that for the Passaic Leonard Place ES project, final inspections have commenced in anticipation of issuance of a temporary certificate

of occupancy later this month. She added that furniture and IT deliveries will commence this month.

Turning to Authority events, outreach and other activities, Ms. Delgado Polanco gave a brief update on the SDA New Logo Contest. She stated that the SDA had requested that children at the four (4) new schools that opened this fall participate in a contest to design a new logo for the SDA. She said that the contest ended February 15. She advised the Board that staff has received some great submissions and the communications team is in the process of working with the Governor's office to pick the winner. She reported that, once a winner is selected, the SDA's communications team will take the winning theme and design a professional logo. She said that staff looks forward to sharing the logo with the Members at a future Board meeting.

The CEO said that staff continues to increase the Authority's social media following. She reported that, since the launch of SDA's social media accounts in September, the Authority has gained more than 2,400 combined followers.

Ms. Delgado Polanco informed the Members that on February 7, the SDA held a groundbreaking for the Millville HS west addition. She said that the Authority had a great group of SDA staff, contractors, Millville board members, elected officials, teachers and students in attendance at the groundbreaking. She noted that a number of media outlets covered the event including the Daily Journal, Press of Atlantic City, South Jersey Today and Insider NJ. She added that staff also filmed the event live on Facebook where it was viewed by more than 1,000 Millville residents.

The CEO advised the Members that staff held a successful groundbreaking on February 11 at the Dayton Avenue Educational Complex in Passaic. She reported that a number of city and school officials attended the event, along with the Senator Paul Sarlo and Assemblyman Gary Schaer. She added that staff filmed the event on Facebook Live and received tremendous



viewing there. She noted that it appeared on more than 8,500 Facebook pages in Passaic and was viewed by more than 4,600 people receiving more than 300 likes and over 40 comments.

The CEO said that SDA will be participating in the Passaic Dayton Avenue Educational Complex information session (April 9) in conjunction with the mayor's office and the superintendent's office and the Perth Amboy HS open house/information session (date TBD) which will be the largest high school project in the history of the SDA.

Ms. Delgado Polanco informed the Members that on February 1, SDA was a featured speaker at the Statewide Hispanic Chamber of Commerce "Brunch with the Chamber" event. She added that the district tour of Elizabeth Schools with the Superintendent Olga Hugelmeyer and the mayor was held on February 5. She said that on February 28, the Community Partnerships Department attended the Irvington State of the City address and, also on February 28, the SDA was a featured speaker at the NJ Veterans Chamber of Commerce "Access to Capital & Meet the Lenders" event.

The CEO reported that the SDA participated in "Read Across America Day" in Paterson at the Paterson Family Center Preschool on March 1. She said that, on March 7, SDA will host it's first "International Women's Day" event in celebration of Women's History Month with selected outstanding young women scholars from the 31 SDA districts invited to hear from SDA staff speakers and notable invited dignitaries. Ms. Delgado Polanco advised that SDA staff will participate in a district tour of Millville's schools with the district's Superintendent, Dr. David Gentile, on March 13. She reported that, on March 26, SDA will participate in the district tour of Newark's Schools with Newark District Superintendent Roger Leon. She added that, on April 2, the SDA will be a featured speaker at the NJ Alliance for Action's "The Inside Scoop" event.

Ms. Delgado Polanco then addressed the issues raised earlier in the meeting with the following:

“And I want to take a moment, as well, to address the Board and the members of the public that are here today. I want to conclude with saying, you know, the news that you’ve been seeing in the media and I want to talk a little bit about myself.

I’ve worked my whole entire career, fighting for the underprivileged in the State of New Jersey in labor unions, first with the hotel employees’ restaurant employees union, service international union as well as the carpenters union.

I have worked tirelessly to be an advocate for the underprivileged, the underrepresented and to work, to always raise workers’ rights and wages and the working poor in this, in this state and the benefits for the middle class across the northeast.

It is now my honor to lead the SDA and I am a advocate and always have been a fierce advocate for the most vulnerable, underrepresented population. We serve the lowest income children in the state of New Jersey urban and sub-rural districts.

My personal story for those of you that don’t know: I was a child raised in Hammonton and I am a first generation American born in this country and I am the child of immigrant, migrant worker parents. I picked blueberries from the time I was 7 years old, every summer till I was 13, in Hammonton New Jersey.

I didn’t have a traditional path like most of the people do. I was a single mother raising 3 children by the time I was 19 years old. One of them was my little brother who I took in as my own son. I had twin boys and by the time I was 25 I had 4 children, my daughter.

I worked 3 jobs to make ends meet, never depending on any public assistance and why I say this is because I also raised my children in a SDA district. Pleasantville New Jersey is where they went to school.

I’m very well aware of the issues and the conditions in these schools but the funny part about this is you don’t realize what extreme poverty is until you’re out of the extreme poverty and I can thank the labor movement for that.

And why I’m saying this is because when I started touring, my first day when I came here at the SDA district, at the SDA, I knew exactly what I wanted to do, I hoped to do.

I wanted to work with New Jersey communities to build environmentally friendly, 21<sup>st</sup> century schools that were the center of neighborhood life and a safe haven for our children, because school was a safe haven for me.

We lived 3 families in a 2 bedroom rancher and school was my escape.

My vision was not only to build state-of-the-art schools– which the SDA has done well for years – but to also lift up communities. I feel it’s a holistic approach and it’s a new vision and a different vision for the SDA.

So I sought to change us and set us on a new direction as all previous CEOs have enjoyed prior to me – all male, by the way.

I hired a team that I knew had a proven experience working with communities. And have a proven track record at doing what they were hired to do.

From the beginning, we reached out to other government agencies, our stakeholders –31 of the, in the 31 SDA school Districts. We began touring schools with superintendents to see the real conditions of the SDA school districts.

And, at every tour, we consistently heard that this had never been done before here at the SDA.

We also heard the cry of why weren't there more local people involved in these projects.

In closing, I am confident of the decisions I've made in my first six months as SDA CEO. Because I feel they were the right decisions to benefit the most vulnerable children in our state.

Personnel decisions work regarding re-organization, terminations, promotions, salary increases were made with the assistance and the input of our Chief Operating Officer Andrew Yosha, Office of the Chief of Staff, the Human Resources Department, Counsel's Office, the SDA Vice Presidents that are sitting here at this table --Don Guarriello, Manny DaSilva, Jane Kelly and Tom Schrum. All of them were in place before I got here.

I look forward to working with our stakeholders. I look forward to working with our staff. I look forward to working with this Board to continue the critically-important mission that we have here at the SDA which is to build state-of-the-art 21<sup>st</sup> century schools that the New Jersey most vulnerable children deserve and should have.

Mr. Chairman, I appreciate your call for Human Resources audit of the SDA. Any time an agency can undertake an internal review of its policies and procedure is a positive one and can only help us improve this Authority and the direction that we're heading.

I thank you for indulging me for this few moments but I feel that I have to speak because there is a lot of misinformation being disseminated. Thank you. Thank you Mr. Chairman.”

Mr. Vargas then asked about the dates for Perth Amboy open house. Ms. Delgado Polanco advised there are tentative dates scheduled in April and May that are awaiting confirmation. Mr. Yosha advised that the project bid documents are being finalized and the SDA will be advertising for design-build services.

Mr. Nixon asked if there were any further comments. Mr. Da Silva said that he was mentioned in the press along with his colleagues. He said that he does take responsibility and he did sign-on to this new mission. He stated that he knew new hires were brought in but that he did not know that he participated in the direct hiring of some of the folks. He said that he sees

the value that they bring and ultimately the fact is that the SDA needs additional funding. He said if SDA does not have the funding he doesn't know what will occur. He said there are 18 projects left to build. He indicated that he does take responsibility for his actions and his involvement. He said that he signed on to the mission and echoes Mr. Nixon's point that we are here to build schools for the students not just in SDA districts but in all of New Jersey.

### *Audit Committee*

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on February 19, 2019 at which time management provided the Committee with the January 2019 New Funding Allocation and Capital Plan Update. He advised that there were no changes in any of the reserve balances for the SDA Districts during the reporting period. Additionally, he reported that the reserve balance for the Regular Operating Districts (RODs) increased by \$700,000 during the reporting period due to reductions in state share for grant projects nearing completion.

Mr. Nixon said that management discussed its plan to negotiate an amendment to the SDA's current insurance broker contract in order to engage the broker Willis of New York (Willis) to negotiate extended coverage terms with the Owners Protective Professional Indemnity (OPPI) and Brokers Risk (BR) insurers. He noted that the OPPI policy expires December 31, 2019 and the BR policy expires March 1, 2020. He advised that there are five (5) capital plan projects that will begin construction after the policies' expiration dates. He explained that, consistent with the SDA Operating Authority, the Committee will seek Board approval in the event the negotiated fee to perform additional broker services exceeds 10% of Willis' current contract. He noted that the Committee will seek approval by the Members for the actual purchase cost of the insurance for both OPPI and BR. He advised that, upon approval of a new capital

plan portfolio, the SDA will consider marketing new programs but, until that time, an extension provides interim coverage more efficiently and cost-effectively.

Next, Mr. Nixon advised that the Committee was provided with the results of one audit that was conducted to comply with the statutory requirement that capital portfolio projects over \$10 million be reviewed to assess whether state funds were expended in accordance with contractual terms, SDA practices and state regulations.

Mr. Nixon then provided the preliminary December 2018 Monthly Financial Report. He explained that the December figures will be updated upon the Authority's receipt of its Government Accounting Standards Board (GASB) No. 68 and GASB No. 75 pension liability figures.

Next, Mr. Nixon advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period totaled \$16.8 million, which is down \$2.5 million as compared to the budget for the corresponding period. He explained that this decrease is mainly attributable to the fact that there are 35 fewer than anticipated full time employees (FTEs) on staff along with timeline and scheduling differences for the replacement of the Primavera Contract Management System. Mr. Nixon said that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period totaled \$341.1 million—\$41.7 million lower as compared to the capital spending forecast for the corresponding period. He advised the Board that this variance is due to spending reductions in construction work, school furniture, fixtures and equipment and payroll expense allocation; from operations to developing construction projects, property acquisition, design services work and project insurance. He noted that the decreased spending was offset by an increase in grant activity and temporary staffing. Mr. Nixon then reported that project expenditures (Actual vs. Prior Year Actual), at \$341.1 million, have decreased by \$14.9 million as compared to the corresponding prior year period. He explained

that the variance is due to decreased spending in construction related activity, school furniture, fixtures and equipment, property acquisition and design services work. He said that this decreased spending was offset by the 2017 OCIP II premium audit credit for project insurance—general liability and worker’s compensation, spending reductions in grants and temporary staffing expenses.

Mr. Nixon reported that, since program inception, approximately 82.9% of the funds authorized for SDA districts have been disbursed. Additionally, he said that, since program inception, 96% of all SDA disbursements relate to school facilities projects, while 4% relate to operating expenses. He advised that the estimated value of current school facilities project activity is approximately \$1 billion.

Mr. Vargas noted that only 4% of the total funds authorized for SDA districts relate to operating expenses which is extremely low. Mr. Nixon stressed that when you are spending 96% of your funds doing what you’re supposed to do, it is a pretty good return on investment.

### *School Review Committee*

#### **Award of Construction Contract and Approval of Final Project Charter – Orange School District - Cleveland Street Elementary School; Award of Construction Contract and Approval of Final Project Charter – Orange School District – Orange High School**

Mr. Nixon asked Mr. Vargas to provide the report of the School Review Committee. Mr. Vargas reported that the School Review Committee met on February 19, 2019 at which time two items were discussed. He said that the first item for Board consideration is a contract award and final charter for the Orange Cleveland ES project (Project). He reported that the Orange Cleveland Street ES is a 38,750 square foot facility educating 306 students in grades Kindergarten to 7. He advised that the scope for the Project will include an approximately 11,550 square foot addition and renovations to address overcrowding at the existing facility. He informed the Members that the Project also will facilitate a change in grade alignment to Pre-K

though grade 6 consistent with the district's approved Long Range Facilities Plan. Mr. Vargas reported that, in November 2018, the Board approved an award for abatement and selective demolition services. He added that the completion of the work is anticipated for April 2019. He said that an award for CM services was approved by the Board on December 5, 2018. He explained that a package for construction services was advertised as a "price and other factors" solicitation beginning on November 14, 2018 for interested firms registered as Small Business Enterprises to participate in the bidding process. Mr. Vargas added that price was weighted as 70% of the overall weight, with all non-price factors having a combined weight of 30%. He said that, following the procurement process, management recommends that the Board approve the award of a contract in the amount of \$18,400,000 to Brockwell & Carrington Contractors (B&C) for construction services for the Project. Mr. Vargas advised that, at the time of review, B&C confirmed that its price proposal is inclusive of all scope elements contained in the contract documents. He noted that management is further recommending that the Board approve the Project's final charter as presented to the Board. He said that, prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel. Mr. Yosha said that it is important to recognize that this project, along with the next project on the meeting agenda, are addition/renovation projects which requires that some of the work, specifically the renovation work, be performed within an existing building. He said that the difference between the construction contract estimate (CCE) and the award amount is the result of what was revealed in the pre-award meeting with B&C. He explained that pre-award meetings with contactors are part of the standard process the SDA follows. He explained that this involves a detailed review of the SDA's bid estimate and the contractor's bid breakdown. He said that this review indicated that there were scope elements, provided by SDA's outside engaged professionals, which were advertised for all the bidders to bid on that did not include the

price for every element. He said that, once the appropriate adjustments were made, the difference between the CCE and the bid award is a much smaller difference. He added that the remaining difference is due to the fact that much of the work will take place in an existing building. Mr. Yosha emphasized the complexities associated with renovations explaining that there is a limit to the heavy equipment the contractor will be able to use, requiring a considerable amount of manual labor and adding to the cost of the Project. Mr. Yosha advised that management and staff recognize that the bid value is appropriate and recommends the award. Mr. Luckie said that he had a conversation with Mr. Yosha regarding this matter. He said that during his tenure on the Board, the Members have been in favor of building new schools rather than renovating existing ones which always cost more than new construction. He commended the review process and said that he is in favor of the award. Mr. Lewis-Powder noted that he toured the Orange Cleveland ES when the SDA first began work on the project. He noted that the school is 120 years old with the boiler room located across from the cafeteria/playroom. He said that there were acquisitions associated with the Project and that heavy equipment cannot be utilized in many areas of the building. He said that the SDA has done an excellent job to date and that this project will be very labor intensive due to the demolitions and rehab. He said that he is very happy to see this project moving forward.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Mr. Egan and seconded by Mr. Maloney, the contract award and final project charter were approved with the Board's unanimous vote in favor of ***Resolution 7a.***

Next, Mr. Vargas said that the Committee also is recommending that the Board approve the contract award and final charter for the Orange HS project (Project). He reported that the Orange HS project, approved by the Board on December 5, 2018, is a 145,294 square foot



facility educating 804 students in grades 10 to 12. He advised that the scope for the HS project is anticipated to include an approximately 50,000 square foot, two story addition to the existing HS facility, an enclosed connecting bridge between the HS and Orange Preparatory Academy and selective renovations to address facilities conditions deficiencies at the existing HS. Mr. Vargas said that the Project also is anticipated to address limited facilities conditions deficiencies in the Preparatory Academy. He explained that a package for construction services was advertised as a “price and other factors” solicitation beginning on October 12, 2018 with price equaling 70% of the overall weight, and all non-price factors having a combined weight of 30%. He reported that following the procurement process, management recommends that the Members of the Authority approve the award of a contract in the amount of \$37,000,000 to Terminal Construction Corporation (Terminal) for construction services for the Project. Mr. Vargas informed the Members that the awardee will be required to perform a constructability review prior to initiation of construction to identify any potential conflicts and their resulting cost impacts. He said that, at the time of review, Terminal confirmed that its price proposal is inclusive of all scope elements contained in the contract documents. He added that management is further recommending that the Board approve the Project’s final charter. Mr. Vargas noted that, prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

A resolution pertaining to this matter was provided to the Board for review in advance of the meeting. Upon motion duly made by Ms. Sullivan and seconded by Mr. Maloney, the contract award and final project charter were approved with the Board’s unanimous vote in favor of *Resolution 7b*.

At this time, Mr. Nixon and Mr. Luckie left the meeting.

### *Public Comments*

At the Vice Chairman's request, Ms. Kelly asked Aaron Goss, an SDA employee, to address the Board. Mr. Goss said that it was appalling that the Chairman and the CEO had to start the meeting with speeches to justify the good that the SDA does. He introduced himself by saying that he has been an SDA employee for 15½ years. He said that he has been through five (5) Governors and nine (9) CEOs. He said that with every administration change "this is what happens, stuff changes". He stated that he wanted it on the record that nobody asked him to speak – that, rather, he was moved to speak. He noted that he didn't know Ms. Delgado Polanco prior to her coming to the SDA nor is he related to her in any way. He said that he has learned a lot from her and that she is compassionate. He noted that none of the previous CEOs has taken the opportunity to visit all the SDA districts. He then said that he wanted to correct Ms. Delgado Polanco's statement that she knew what she wanted to do when she got to the SDA. He explained that she was invited to the first school she toured and, after seeing the conditions, she then decided she wanted to visit all of the SDA districts. He said that Ms. Delgado Polanco spoke with everyone at the schools while on these tours. He said that she asked staff if they were treated well and were paid enough. He said that she tried to get security guards for the front desk but it didn't work out. Mr. Goss said that Ms. Delgado Polanco is in a "fight for her life". He said that the schools she is fighting for, through her efforts for reauthorization, often supply the only meals these school children have. He said that when other children look forward to snow days these children do not because they don't get to eat if they don't go to school.

Ms. Kelly invited Heather Sorge to the podium. Ms. Sorge stated that she is the campaign organizer for the New Jersey Work Environment Council and the Chair of the Healthy School Now (HSN) Coalition. She advised the Board that HSN is a coalition of more than 55 organizations representing diverse stakeholders. She listed the names of some of the stakeholders

and explained that the organization is dedicated to ensuring that all New Jersey school children and school employees learn and work in safe, healthy, modernized school buildings. She said that children cannot learn in unhealthy and unsafe school conditions, noting that when these conditions are present there is an increase in absenteeism and illness, and morale suffers greatly. She advised the Board that she co-authored an OpEd piece highlighting school infrastructure problems in the SDA districts. She said that the OpEd, entitled “New Jersey needs to cough up the cash so that school children don’t get sick” was featured in the Star Ledger. She said that the heart of the issue is that no new funds have been issued since 2008 and all funds now have been spent or are allocated. She said that there are now zero funds available for capital projects or ROD grants. Ms. Sorge said that there are extremely serious issues in the schools which need to be addressed. She advised that she reads monthly reports regarding sub-standard school conditions throughout the State including raw sewage, asbestos, mercury exposure (poisoning) and extreme temperature conditions. She described schools where windows do not open, where temperatures exceed 90 degrees, or the opposite, where kids are attending class and freezing. She said that she was pleased that Roy Garcia, SDA’s chief of staff and several members of his staff attended a recent HSN coalition meeting and answered members’ questions. She stated that, under the new leadership led by Ms. Delgado Polanco, a real effort is being made to increase communication, noting the significant effort to tour the 31 districts to inspect building conditions first hand. She said that the SDA has increased its visibility which is refreshing and welcome. She noted that until funding has been established, students and staff will continue to be exposed to unhealthy and unsafe conditions. She stated that the effort is about insuring that students have healthy safe schools regardless of their zip code.

Ms. Kelly asked David Barie to address the Board. Mr. Barie said that he would like to comment on the Orange HS project but, before he does, he has a couple of other comments. He

said that, in the interest of full disclosure, it would be important for those in attendance, particularly the news media, to know that Aaron Goss received a promotion and a not insignificant raise during the reorganization. He added that this is important to recognize as perhaps his personal views reflect the fact that he has benefited significantly during the most recent reorganization. Mr. Barie said that he would like to take a brief moment to express his heartfelt best wishes to CEO Lizette Delgado Polanco. He said that as a former member of the SDA family, he would like to take the opportunity to say “goodbye and good luck” (in Spanish). He added that he does so because this likely will be the last or next to the last Board meeting wherein CEO Delgado Polanco will have the opportunity to participate as the SDA CEO. He said that, on behalf of his former colleagues, specifically those dedicated, experienced and qualified employees who silently endure the daily tribulations of working at the SDA, he thanks CEO Delgado Polanco for her, mercifully brief, disservice to the SDA and wishes her and her extended family well in their endeavors. Mr. Barie said that, from personal experience, he can assure the CEO that there is, in fact, life after SDA. He said he fully expects that it comes to no surprise to the CEO that, during her abbreviated tenure, she has squandered the good will and respect that the SDA staff normally affords incoming CEOs. He added that the CEO has accomplished this through her blatant disregard for established hiring and firing policies and procedures. He noted the dilatory effects on morale that have resulted from the CEO’s prioritization and advancement of her personal agenda above the noble mission of the Authority. He said that this and her generally unscrupulous behavior are truly unprecedented. Mr. Barie said that this detrimental impact on employee morale is clearly among the top three of Ms. Delgado Polanco’s most significant accomplishments and perhaps the nascent cornerstone of her legacy. He said that it also should be noted that her lack of experience combined with her virtual

nonexistent managerial proficiency and utter lack of personal integrity is propelling the SDA to a precipitous bureaucratic disembodiment.

Next, Ms. Kelly asked Adele Bonar to address the Board. Ms. Bonar said that she is a former employee who worked for the SDA for almost 15 years. She advised the Board that she has a Bachelor's Degree in business administration and a Master's Degree in public accounting. She added that she is a certified public accountant and has worked in various departments in the SDA. She said that the Members of the Board who all serve on a voluntary basis, have accepted the responsibility of oversight for the actions of the SDA. She said that she and others believe the Board has failed and has turned a blind eye to the actions of the current CEO. She added that career employment should not be impacted by politics. She said that she has worked for six CEOs at the SDA. She explained that, during her tenure, she experienced more than one change in administration and what the Board has allowed in the short tenure of Lizette Delgado Polanco surpasses that of any other former SDA CEO. She addressed Ms. Delgado Polanco who, she said, claims to be a supporter of womens' rights. She asked how, as a champion of women, the CEO could justify what she did to a working mother who is trying to pay for her daughter's college education. Ms. Bonar then reference the treatment of a former employee whom, she said, after working for every SDA CEO chose to retire after 31 years of service rather than agree to a demotion. She added that no one expected that from the CEO, especially the women at the SDA. Ms. Bonar said that both Ms. Delgado Polanco and the former chief of staff, Albert Alvarez, described the employees of the SDA as "family". She added that the actions taken against her and other employees is not what one would expect from their own family. She said that Mr. Alvarez left a vague voicemail on her phone saying he had a package for her. She noted that the letter was left on her doorstep. She said that this is how the SDA treats a 15 year family member.

Next, Ms. Kelly asked Sameer Shah to address the Board. Mr. Shah said that he stands here today at the downward spiral of the Authority as a result of the multiple troubling reports that are being published all over. He said that he is a previous employee who had worked with all the SDA CEOs prior to Ms. Delgado Polanco. He said that he started as an employee of the EDA then the SCC and eventually the SDA. He said that it hurts him to see the Authority in the current situation and that he is here today to express his sincere concerns. He said that the Authority was at the top of its reputation due to the work of Ms. Delgado Polanco's predecessors and the SDA's hard working employees. He said that he appreciates that, with the right chemistry and with the relationship Ms. Delgado Polanco has with the Governor, she could have gotten the SDA funding. He said "what you chose instead is to mismanage". He said that as soon as Ms. Delgado Polanco was hired she chose to rely on her executives, to promote them and give them more authority for her own failure. He said that, after she chose to fire those employees who were working here for fifteen (15) years that even the senate president recognized that those people should not have been discharged as a result of the administration. He said the CEO should consider resigning because that is the only thing that can bring the funds to the Authority now. He said that the mission of the Authority is great but the CEO's decision to hire and bring in her own family was completely wrong. He said that if the CEO leaves the Authority there is a potential of getting funds; but that otherwise this mission will be stopped and Ms. Delgado Polanco will be responsible for that.

Lastly, Ms. Kelly asked Pastor Steffie Bartley to address the Board. Pastor Bartley said that he is the Regional Coordinator for the National Action Network under the leadership of the Reverend Al Sharpton. Pastor Bartley said that he has come here today and witnessed bigotry, hatred and racism to attack such a woman. He said that Reverend Sharpton directed him to come here immediately so that we could keep an eye on exactly what is going on at SDA. Pastor

Bartley said that we want to make sure Ms. Delgado Polanco is protected to do the job at the SDA that she needs to do so that the community can benefit. He said that all he can hear is those who should have been fired long ago because of their attitude and the things that they say. He said that “you are not concerned with the community, it is all about Senate President Sweeney.” He chastised the previous speakers for speaking about a great woman—the first Hispanic woman who went into the 31 districts to look and see the conditions. Pastor Bartley said that the National Action Network is on the CEO’s side and will do whatever is needed. He thanked the Board Members and asked that they look at the good work Ms. Delgado Polanco is doing, along with the staff she has put together, to make sure that our communities can benefit.

### *Adjournment*

There being no further business to come before the Board, upon motion by the Chairman and with unanimous consent, the meeting was adjourned.

**Certification:** The foregoing represents a true and complete summary of the actions taken by the Board of the New Jersey Schools Development Authority at its March 6, 2019 meeting.

*/s/ Jane F. Kelly*  
Assistant Secretary



***Resolution—4a.*****Approval of Minutes**

**WHEREAS**, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Schools Development Authority be approved by the Authority's Board of Directors; and

**WHEREAS**, pursuant to Section 3(k) of P.L. 2007, Chapter 137, the minutes of the March 6, 2019 Board meeting of the New Jersey Schools Development Authority, for the Open Session were forwarded to the Governor on March 12, 2019.

**NOW, THEREFORE, BE IT RESOLVED**, that the minutes of the New Jersey Schools Development Authority's March 6, 2019 Open Session meeting is hereby approved.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Dated: April 3, 2019

## **AUTHORITY MATTERS**

**CEO REPORT (*ORAL*)**

**CHAIRMAN'S REPORT (*ORAL*)**

**REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE  
(CHAIRMAN'S REPORT)**

**CHANGE ORDER - EPIC MANAGEMENT, INC.**



## MEMORANDUM

6

TO: Members of the Authority

FROM: Bob Ryan  
Program Director, Program Operations

DATE: April 3, 2019

SUBJECT: Newark-Luis Munoz Marin School: Emergent Project Limited HVAC Replacement

Approval of Change Order No. 3 HVAC Modifications (Modify Curbs for Units AC-2 & AC-3)

COMPANY NAME: Epic Management, Inc.  
 DISTRICT: Newark Public School District  
 CONTRACT NO.: GP-0231-C18  
 PACKAGE NO.: EP-0102-C01  
 PMF/CM: NJSDA Self-Managed  
 SCHOOL NAME: Luis Munoz Marin School  
 CHANGE ORDER NO.: 3  
 REASON: Unforeseen Condition  
 AMOUNT: \$17,533  
 TIME EXTENSION: 0 Days  
 CONTRACT STATUS: 0.00% Paid to date against the Current Total Contract value  
 OCCUPANCY DATE: NA

### INTRODUCTION

I am writing to recommend approval by the Members of the Authority of Change Order (CO) No. 3 for a lump sum value of \$17,533 to address necessary modifications to the HVAC system at the Luis Munoz Marin School in the Newark Public School District (District):

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, an Emergent Project Change Order which singularly exceeds \$250,000 or 10% of the contract value requires approval by the Members of the Authority. CO No. 3 exceeds 10% of the contract value.

Funding for this change order is available within the construction contingency established in the Emergent Project Charter approved by the Chief Executive Officer in January 2018.

### BACKGROUND

The Luis Munoz Marin School (Marin School), built in 1955 is an approximately 172,000 square foot facility in the Newark Public School District educating approximately 927 students in grades Pre-Kindergarten through 8.

Members of the Authority  
 Change Order No. 3-Epic Management, Inc.  
 Newark Public Schools-Luis Munoz Marin School  
 April 3, 2019  
 Page 2 of 3

In July 2016 the NJDOE and NJSDA launched a third statewide effort to identify and evaluate potential emergent projects throughout the NJSDA Districts. This effort resulted in the identification of conditions at the Marin School for advancement as an emergent project: replacement of five (5) gas fired HVAC units that provide cooling to several windowless educational spaces including the cafeteria and library.

In February 2018, Epic Management was engaged to perform all work associated with the replacement of the five units through a rotational assignment utilizing the existing General Construction Task Order engagement. Epic Management's engagement included limited design work necessary to obtain permits from the Department of Community Affairs and replacement-in-kind of the existing units.

During the course of replacement of the 5 units, it was found that two of the existing supply and return duct mains did not align properly with the manufacturer recommended in kind replacement units. As a result, curb adjustments and connecting ductwork are necessary to accommodate installation of the new units.

NJSDA requested and received a price proposal from Epic, dated January 28, 2019 in the amount of \$17,533.00 to furnish and install all work necessary to modify the curbs and ductwork for two (2) units.

#### REASON FOR CHANGE

Change Order No. 3 is necessary in order for Epic to provide additional work related to two (2) HVAC unit placements and fabrication of new curbs. After the existing units were removed, it was found that the existing supply and return duct mains did not align with the manufacturer recommended one to one replacement units. Therefore, curb adjustments and connecting ductwork are necessary. These modifications will allow Epic to maintain the required unit clearances.

All documents supporting this Change Order have been reviewed by the associated NJSDA project Team Members and the Program Director for adherence to current SDA policy and procedures. All reviewing NJSDA staff members have determined that the items included in Change Order No. 3 are justified and the amount is reasonable and appropriate.

#### CALCULATIONS

a.	Original Contract Amount inclusive of allowance	\$	143,847
b.	Change Orders to Date (excluding proposed change order)	\$	13,750
c.	Proposed Change Order Amount	\$	17,533
d.	Total Change Orders to Date including these Change Order (Total of Line (b.) and Line (c.))	\$	31,283
e.	Percentage Change to Original Contract (Line (d.) represents a percent of Line (a.))		22%
f.	Proposed Adjusted Contract Price (Line (a.) plus Line (d.))	\$	175,130



Members of the Authority  
Change Order No. 3-Epic Management, Inc.  
Newark Public Schools-Luis Munoz Marin School  
April 3, 2019  
Page 3 of 3

RECOMMENDATION

The Members of the Authority are requested to approve Change Order No. 3 for a lump sum value of \$17,533 to address necessary modifications to the HVAC system at the Luis Munoz Marin School in the Newark Public School District.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, an Emergent Project Change Order which singularly exceeds \$250,000 or 10% of the contract value requires approval by the Members of the Authority. Change Order No. 3 exceeds 10% of the contract value.

/s/ Bob Ryan  
Bob Ryan, Program Director, Program Operations

Reviewed and Recommended by: Andrew Yosha, Chief Operating Officer  
Reviewed and recommended by: Donald Guarriello, Vice President and Chief Financial Officer  
Reviewed and Recommended by: Manuel Da Silva, Vice President, Construction Operations  
Reviewed and Recommended by: Greg Voronov, Managing Director, Capitol Planning and Program Operations  
Reviewed and Recommended by: Nicole Burnett, Deputy Director, Construction Operations  
Reviewed and Recommended by: Gabe Salas, Program Officer, Construction Operations  
Prepared and Recommended by: Rick Ferrara, Program Officer, Construction Operations

**Resolution—6a.**Approval of Change Order No. 3, Luis Munoz Marin School  
Newark Public Schools District

6

Company Name:	Epic Management, Inc.
District:	Newark Public Schools District
Contract No.:	GP-0231-C18
Package No.:	EP-0102-C01
PMF/CM:	NJSDA Self-Managed
School Name:	Luis Munoz Marin School
Change Order No.:	3
Reason:	Unforeseen Condition
Amount:	\$17,533
Time Extension:	0 Days
Contract Status:	0.00% Paid to date against the Current Total Contract value
Occupancy Date:	NA

**Resolution**

**WHEREAS**, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority) provides that an emergent project change order that singularly exceeds \$250,000 or 10% of the contract value requires approval by the Members of the Authority; and

**WHEREAS**, The Luis Munoz Marin School (Marin School) is an approximately 172,000 square foot facility in the Newark Public Schools District educating approximately 927 students in grades Pre-Kindergarten through 8; and

**WHEREAS**, in 2016 the New Jersey Department of Education (DOE) and SDA launched a third statewide effort to identify and evaluate potential emergent projects throughout the SDA Districts and, in so doing, identified conditions at the Marin School for advancement as an emergent project; and

**WHEREAS**, the emergent project identified for the Marin School involved replacement of five gas fired HVAC units that provide cooling to several windowless educational spaces including the cafeteria and library; and

**WHEREAS**, in February 2018, Epic Management, Inc. (Epic) was engaged to perform all work associated with the replacement of the five units through a rotational assignment utilizing the existing general construction task order engagement; and

**WHEREAS**, Epic's engagement included limited design work necessary to obtain permits from the Department of Community Affairs and replacement-in-kind of the existing units; and

**WHEREAS**, during the course of replacement of the five units, it was determined that unforeseen additional work was needed to accommodate installation of two of the new units; and

**WHEREAS**, SDA requested and received a price proposal from Epic, dated January 28, 2019, in the amount of \$17,533.00 to furnish and install all work necessary to modify the curbs and ductwork for the two units (Change Order No. 3) ; and

**WHEREAS**, the value of Change Order No. 3 singularly exceeds 10% of the contract value and thus requires Board approval; and

**WHEREAS**, funding for Change Order No. 3 is available within the construction contingency established in the Emergent Project Charter approved by the SDA Chief Executive Officer in January 2018; and

**WHEREAS**, the project background, reason for the change, cost details and a summary of the change are set forth in the memorandum presented to the Board on this date; and

**WHEREAS**, all documents supporting Change Order No. 3 have been reviewed by the associated SDA project team members and the program director for adherence to current SDA policy and procedures and all reviewing SDA staff members have determined that the items included in this change order are justified and that the amount is reasonable and appropriate.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby authorize and approve Change Order No. 3 for a lump sum value of \$17,533 to address necessary modifications to the HVAC system at the Luis Munoz Marin School in the Newark Public Schools District.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10-day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Epic Management, Inc. (Contract No. EP-0102-C01, Package No. GP-0231-C18), Change Order No. 3, Luis Munoz Marin School, Newark Public Schools District,  
Dated April 3, 2019

Dated: April 3, 2019

**EXTENSION OF EXISTING REGULATIONS: NOTICE OF READOPTION  
(WITHOUT AMENDMENTS) - PROCUREMENT OF ARCHITECTS, ENGINEERS,  
LAND SURVEYORS AND OTHER PROFESSIONAL SERVICES CONSULTANTS,  
N.J.A.C. 19:38C**



**MEMORANDUM**

**TO:** Members of the Authority

**FROM:** Jane Kelly, Vice President, Corporate Governance and Legal Affairs  
Cecelia Haney, Deputy Chief Counsel and Administrative Practice Officer

**DATE:** April 3, 2019

**RE:** Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procurement of Architects, Engineers, Land Surveyors and other Professional Services Consultants, N.J.A.C. 19:38C

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On March 2, 2012 the Members of the NJSDA Board approved for final adoption regulations for the Procurement of Architects, Engineers, Land Surveyors and other Professional Services Consultants, N.J.A.C. 19:38C (“the Rules”). The Rules were formally published in the New Jersey Register on April 4, 2012 and will expire on April 4, 2019.

Management of the Authority now seeks the Members’ ratification of the filing of a Notice of Readoption to extend the expiration of the Rules, an expedited process that permits regulations to be readopted, without amendments, and without prior publication or public comment, pursuant to a filing of the Notice of Readoption with the Office of Administrative Law, at least thirty days prior to the expiration of the regulations. Due to the expiration of the Rules on April 4, a Notice of Readoption has already been sent to the Office of Administrative Law to meet the statutory 30-day filing requirement, but processing of the readoption and extension is suspended pending the Board’s ratification of the Notice.

This Notice of Readoption process is typically used by State agencies and authorities to seek additional time to review or modify existing rules, or to ensure that underlying rules do not expire while the agency pursues substantive amendments through the normal proposal, publication, public comment and adoption process. While the Notice of Readoption process effects readoption of the rules, and therefore automatically extends the rules for the normal seven-year rule duration, it is the intention of Management to act in short order to develop any amendments needed to correct or improve the Rules, and to submit any proposed amendment to external entities for review and validation, before seeking approval from the Board for a proposed readoption with amendments to the Rules.

**Background**

As noted above, the proposed Notice of Readoption process will involve no amendments or modification to the Rules, and upon readoption the Rules will remain in their current form. The Rules establish requirements, standards and procedures for the Authority's procurement of architects, engineers, land surveyors and other Professional Services Consultants (PSCs). A full copy of the Rules is provided with this memorandum.

The Rules address requirements for prequalification, advertisement, evaluation and selection in procurements for professional services consultants; procedures regarding cancellation of procurements; inclusion of required contract terms for termination, records retention, disclosure and publicity; and provisions for performance evaluations of engaged consultants. The rules address selection procedures for procurement of professional services contracts that exceed the state bidding threshold pursuant to N.J.S.A. 52:34-7b as amended, as well as procedures for procurements that do not exceed the state threshold; procedures for procurements subject to a waiver of advertising; procedures for procurement of term contracts for professional services; procurements of title insurance companies, appraisers, and experts; and provisions for protests and hearing procedures for objections relating to procurements of professional services consultants.

**Requested Board Action**

The Members of the Authority are requested to ratify the use of the Notice of Readoption process to effect the readoption and extension of the Rules, utilizing the attached Notice of Readoption filed with the Office of Administrative Law, which, upon ratification, will be processed for publication in the New Jersey Register. This readoption and extension will permit further review of the existing rules, consideration of any needed amendments, and opportunity to secure required external reviews of any proposed modifications before proceeding with a full proposal and adoption of any such amendments.

/s/Jane F. Kelly

Jane F. Kelly, Vice President  
Corporate Governance & Legal Affairs

Prepared by Cecelia Haney, Deputy Chief Counsel and Administrative Practice Officer

JFK/ceh

## **OTHER AGENCIES**

### **NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**

#### **Notice of Readoption**

#### **Procurement of Architectural, Engineering, Land Surveying, and Related Professional Consulting Services**

#### **Readoption: N.J.A.C. 19:38C**

Authority: N.J.S.A. 52:18A-238k and N.J.S.A. 52:34-9 et seq.

Authorized By: Lizette Delgado Polanco, Chief Executive Officer, New Jersey Schools Development Authority.

Effective Date: March 4, 2018.

New Expiration Date: March 4, 2025.

**Take notice that**, in accordance with N.J.S.A. 52:14B-1, the rules at N.J.A.C. 19:38C were to expire on April 4, 2019. Chapter 38C establishes the requirements, standards, and procedures for the Authority's procurement of architects, engineers, land surveyors, and other professional services consultants.

The rules address general provisions and requirements for procurements of professional services consultants, including: the purpose and scope of the rules; the definition of terms used in the rules; requirements for prequalification, advertisement, evaluation and selection in procurements for professional services consultants; procedures regarding cancellation of procurements; inclusion of required contract terms for termination, records retention, disclosure and publicity; and provisions for performance evaluations of engaged consultants. The rules address selection procedures for procurement of professional services contracts that exceed the state bidding threshold pursuant to N.J.S.A. 52:34-7b as amended, as well as procedures for procurements that do not exceed the state

threshold; procedures for procurements subject to a waiver of advertising; procedures for procurement of term contracts for professional services; procurements of title insurance companies, appraisers, and experts; and provisions for protests and hearing procedures for objections relating to procurements of professional services consultants.

The New Jersey Schools Development Authority is in the process of reviewing the existing rules to determine if revisions or amendments are needed, and anticipates that a Notice of Proposal for Readoption with Amendments will be issued in the near future. However, in the interim, the New Jersey Schools Development authority has reviewed the rules at N.J.S.C. 19:38C and has determined them to be necessary, reasonable and responsive to the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1c(1) and N.J.A.C. 1:30-6.4(h), N.J.A.C. 19:38C is readopted and shall continue in effect for a seven year period.

Approved: /s/ Lizette Delgado Polanco  
Lizette Delgado Polanco  
Chief Executive Officer, NJSDA

Date: March 4, 2019



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\*\*\* This file includes all Regulations adopted and published through the \*\*\*  
\*\*\* New Jersey Register, Vol. 47 No. 4, February 17, 2015 \*\*\*

TITLE 19. OTHER AGENCIES  
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
CHAPTER 38C. PROCUREMENT OF ARCHITECTS, ENGINEERS, LAND SURVEYORS, AND OTHER PROFESSIONAL SERVICES CONSULTANTS

*N.J.A.C. 19:38C (2015)*

Title 19, Chapter 38C -- Chapter Notes

CHAPTER AUTHORITY:

P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (*N.J.S.A. 18A:7G-1 et seq.*); P.L. 2007, c. 137 (*N.J.S.A. 52:18A-235 et seq.*) (enabling statutes); and P.L. 1997, c. 399 (*N.J.S.A. 52:34-9.1 et seq.*) (related authority).

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2012 d.085, effective April 4, 2012.

See: *43 N.J.R. 3153(a)*, *44 N.J.R. 1551(a)*.

CHAPTER EXPIRATION DATE:

Chapter 38C, Procurement of Architects, Engineers, Land Surveyors, and Other Professional Services Consultants, expires on April 4, 2019.

CHAPTER HISTORICAL NOTE:

Chapter 38C, Procurement of Architectural, Engineering, Land Surveying, and Related Professional Consultant Services, was adopted as R.2005 d.60, effective February 7, 2005. See: *36 N.J.R. 4087(a)*, *37 N.J.R. 516(b)*.

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from February 7, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.*

Chapter 38C, Procurement of Architectural, Engineering, Land Surveying, and Related Professional Consultant Services, was readopted as R.2012 d.085, effective April 4, 2012. As a part of R.2012 d.085, Chapter 38C was renamed Procurement of Architects, Engineers, Land Surveyors, and Other Professional Services Consultants; Subchapter 3, Selection Procedures--Category One Contracts, was renamed Selection Procedures--Agreements not Exceeding the State Bid Threshold Pursuant to N.J.S.A. 52-34-7b; Subchapter 4, Selection Procedures--Category Two Contracts, was repealed; Subchapter 5, Selection Procedures--Category Three Contracts, was renamed Selection Procedures--Agreements Exceeding the State Bid Threshold, as Adjusted, Pursuant to N.J.S.A. 52-34-7b; Subchapter 6, Selection Procedures--Category Four Contracts, was renamed Waiver of Advertising; Subchapter 7, Selection Procedures--Category Five Contracts, was renamed Selection Procedures--Term Agreements; and Subchapter 8, Engagement

of Title Insurance Companies, Subchapter 9, Engagement of Appraisers, Subchapter 10, Engagement of Experts and Subchapter 11, Protests and Hearing Procedures, were adopted as new rules, effective May 7, 2012. See: Source and Effective Date. See, also, section annotations.

#### § 19:38C-1.1 Purpose and scope of rules

This chapter is designed to implement the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, *N.J.S.A. 18A:7G-1* et seq., as amended, and P.L. 2007, c. 137, *N.J.S.A. 52:18A-235* et seq., by establishing procedures for the procurement of professional consulting services, so that the Authority may carry out its broad statutory mandate to plan, design and construct school facilities projects and effectively administer the Authority's schools construction program. This chapter is also designed to implement the provisions of P.L. 1997, c. 399, *N.J.S.A. 52:34-9.1* et seq., which govern procedures generally applicable to the Authority's award of contracts for professional architectural, engineering, and land surveying services.

#### § 19:38C-1.2 Definitions

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

"Act" means the "Educational Facilities Construction and Financing Act," P.L. 2000, c. 72, *N.J.S.A. 18A:7G-1* et seq., as amended, which mandates the school construction program.

"Agreement" means the written agreement between the Authority and the architectural, engineering, land surveying, or other professional services consultant for the provision of services.

"Appraiser" means a firm that provides an unbiased analysis, opinion, or conclusion on the value of real property.

"Authority" or "SDA" means the New Jersey Schools Development Authority, an entity formed pursuant to P.L. 2007, c. 137, *N.J.S.A. 52:18A-235* et seq., as successor to the New Jersey Schools Construction Corporation. The Authority is statutorily charged with undertaking and funding school facilities projects, pursuant to the Act.

"Board" means the governing body of the Authority, consisting of the members of the Authority as outlined in *N.J.S.A. 52:18A-237*.

"Commissioner" means the Commissioner of the Department of Education.

"Compensation" means the payment(s) due to the professional services consultant for services rendered.

"Corporation" or "SCC" means the New Jersey Schools Construction Corporation, the entity formed pursuant to *N.J.S.A. 34:1B-159* and the predecessor to the Authority, which was abolished by P.L. 2007, c. 137.

"Department" means the New Jersey Department of Education.

"Emergent project" means a capital project necessitating expedited review and, if applicable, approval, in order to alleviate a condition that, if not corrected on an expedited basis, would render a building or facility so potentially injurious or hazardous that it causes an imminent peril to the health and safety of students or staff, as defined by *N.J.A.C. 6A:26-1.2*.

"Expert" means an individual or firm with a high degree of skill or knowledge in a specific subject engaged or to be engaged by the Authority for purposes of litigation support, including, but not limited to, testimony as an expert witness.

"Fee proposal" means the proposal submitted by the professional services consultant in the form and manner provided for in the request for qualifications or request for proposals, which specifies the fees proposed for the provision of services.

"Key team member" means a principal, partner, or officer of the professional services consultant, project executive, senior principal, studio head, project manager, project architect, construction administrator, job captain, or any other

title required in the request for qualifications or request for proposals, and represented in a proposal as having a responsible role in the successful completion of services required in the agreement.

"Moral integrity review" means an investigation, performed by the Authority or members of the New Jersey State Police or other investigative body on behalf of the Authority, of a firm that seeks to enter an agreement with the Authority.

"NJEDA" means the New Jersey Economic Development Authority established pursuant to P.L. 1974, c. 80, *N.J.S.A. 34:1B-1* et seq., as amended, or any successor thereto.

"Notice of award" means a written notice issued to a professional services consultant by the Authority indicating that the professional services consultant has been selected to perform certain services pursuant to an Authority procurement process and that upon the Authority's receipt of certain required documentation, the Authority intends to enter an agreement with the professional services consultant for the performance of those services.

"Other facilities" means those facilities that are not school facilities projects as defined by the Act, namely, athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration.

"Pre-construction activities" means the work that must be undertaken prior to submitting a school facilities project application to the Department for approval and calculation of preliminary eligible costs. Such activities may include:

1. Site analysis;
2. Acquisition of land;
3. Remediation;
4. Site development;
5. Feasibility studies including studies to determine the viability of new construction versus rehabilitation;
6. Design work;
7. Acquisition of and design work for temporary facilities; and
8. Such other activities as may be specified in *N.J.S.A. 18A:7G-5* or *N.J.A.C. 19:34-1.2* or *6A:26-1.2*.

"Pre-qualified" or "pre-qualification" means the approval of a professional services consultant by the Authority pursuant to *N.J.A.C. 19:38A*.

"Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of P.L. 2000, c. 72, *N.J.S.A. 18A:7G-7* or as otherwise provided pursuant to section 5 of P.L. 2000, c. 72, *N.J.S.A. 18A:7G-5* and which shall be deemed to include the costs of construction and other allowable costs.

"Professional services consultant" or "consultant" means the architect, engineer, land surveyor, or other individual or professional firm providing services related to its respective occupation, which require unique professional or technical skills, licenses, or other credentials, associated with research, development, design, construction, construction administration, alteration, or improvement to real property, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform. The professional services consultant may provide services including, but not limited to, studies (including feasibility studies), investigations, surveys, evaluations, consultations, appraisals, planning, programming, conceptual designs, plans, and specifications, cost estimates, construction management, inspections, submittal reviews, testing, commissioning, provision of title insurance, preparation of operating and maintenance manuals, and other related services, and shall include those consultants who provide "professional architectural, engineering, or land surveying services" within the meaning of *N.J.S.A. 52:34-9.2*.

"Proposal" means the response submitted by a professional services consultant with respect to a request for qualifications or a request for proposals.

"Protest" means a challenge to a decision, statement, action, or alleged inaction of the Authority.

"Ranking" means the process of listing responsive professional services consultants in order of highest to lowest total scores, based upon selection criteria set forth in the RFQ and/or RFP.

"Request for proposals" or "RFP" means a request for technical proposals and/or fee proposals for the selection of a professional services consultant.

"Request for qualifications" or "RFQ" means a written request issued by the Authority seeking submissions from professional services consultants, including statements of qualifications, experience, and/or organizational information, as well as any additional information deemed necessary by the Authority, in connection with the selection of a professional services consultant for a school facilities project, pre-construction activity, or other type of engagement for the school construction program.

"School construction program" means the program of school facilities projects and related activities undertaken by the Authority pursuant to the Act.

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction, or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs, and administrative costs and expenses incurred in connection with the project.

"School facility" means and includes any structure, building or facility used wholly or in part for educational purposes by a district, and facilities that support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities as elsewhere defined in this section.

"SDA school district" means a school district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year, as defined at P.L. 2007, c. 260, § 39, *N.J.S.A. 18A:7G-3*.

"Selection committee" means the group(s) responsible for review and evaluation of professional services consultants' responses to RFQs and/or RFPs in connection with a procurement of one or more professional services consultants for an engagement with the Authority when the compensation for the engagement is anticipated to exceed the State bid advertisement threshold pursuant to *N.J.S.A. 52:18A-243*.

"Selection coordinator" means the administrator of the operations and procedures of the selection process, whose activities shall include, but are not limited to, scheduling of meetings, preparing agendas, recording scores, preparing minutes of selection committee meetings, and other similar administrative duties.

"Services" means the duties and responsibilities to be performed by the professional services consultant pursuant to the agreement, and includes all other labor, materials, and equipment provided or to be provided to fulfill such obligations.

"Small business enterprise" or "SBE" means a firm that is registered as a "small business" with the New Jersey Department of the Treasury, Division of Minority and Women Business Development pursuant to *N.J.A.C. 17:14-3.1*.

"Task order" means a contractual document, containing a scope of work, negotiated costs, and schedule, which the Authority issues to a professional services consultant, pursuant to a term agreement.

"Term agreement" means an agreement whereby the Authority may engage a professional services consultant for a defined period of time.

"Title insurance" means a policy issued by a title insurance company insuring, guaranteeing, or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in or the unmarketability of the title of the subject property and includes searches relating to the title of the subject property.

"Title insurance company" means a title insurance company duly authorized to transact the business of issuing title insurance in the State of New Jersey.

#### § 19:38C-2.1 Scope

This subchapter addresses the manner in which SDA shall engage a professional services consultant; provides for the methodologies; identifies the qualitative factors used in evaluating proposals; and provides the process for the rejection of proposals and the approval, execution, and termination of agreements.

#### § 19:38C-2.2 Pre-qualification requirement

(a) A professional services consultant seeking to be engaged by the Authority must be pre-qualified by the Authority at the time of submission of a response to an RFQ and/or an RFP, if pre-qualification is required by *N.J.A.C. 19:38A*, except if otherwise expressly provided in this chapter.

(b) The Authority shall establish pre-qualification requirements as may be necessary in order to ensure competitive proposals, or as may be dictated by the unique or specialized nature of the services to be performed under the agreement.

(c) All professional services consultants that seek to be engaged by the Authority are subject to a moral integrity review, even where Authority pre-qualification is not required. If the results of the moral integrity review are negative or unsatisfactory in that they indicate any circumstance that would justify a revocation of pre-qualification under *N.J.A.C. 19:38A-4.1*, the Authority shall reject the professional services consultant's proposal pursuant to *N.J.A.C. 19:38C-2.6*.

#### § 19:38C-2.3 Selection procedures based on type of engagement

The Authority may establish different procedures, as set forth in this chapter, for the selection of professional services consultants based on the type of professional services consultant to be engaged or the contract value.

#### § 19:38C-2.4 Advertising

(a) The Authority shall advertise for all procurements in accordance with *N.J.S.A. 52:18A-243(h)*. In addition, such advertising may also be placed:

1. In design and construction publications and trade journals covering the construction industry in New Jersey;
2. By written notice to New Jersey professional societies; or
3. By use of direct mailings to consultants.

(b) Any advertisement shall be made in the form and in the time required to promote competition and shall describe any specific information that an interested professional services consultant must submit, as well as the date and time of the deadline for submissions.

(c) The advertisement shall specify the evaluation criteria that shall apply to the proposals.

#### § 19:38C-2.5 Evaluation

(a) The ranking of professional services consultants shall be performed pursuant to evaluation criteria established by the Authority for each particular engagement, and by the weights established for such criteria. In selecting the most highly qualified professional services consultants, the selection committee shall consider the criteria and relative weights of such criteria, as set forth in the RFP and/or RFQ.

(b) The Authority may require the submission of proposals, requests for clarifying technical and/or organizational information, interviews, site visits, and pre-proposal conferences; however, all such requirements will be set forth in the RFP and/or RFQ.

(c) Nothing in this chapter shall be construed to limit the Authority's ability to obtain services pursuant to an SBE set-aside procurement under *N.J.A.C. 19:39*.

§ 19:38C-2.6 Rejection of proposals; cancellation of procurement or award

(a) Proposals received after the submission date and time prescribed in the RFQ and/or RFP shall be rejected.

(b) The Authority may reject any proposal for any reason, in accordance with law, when it is otherwise deemed to be in the public interest to do so. The Authority may reject all proposals and cancel a procurement, for excessive cost, insufficient competition, or any other reason, in accordance with law, that it deems to be in the public interest.

(c) The Authority may cancel an award at any time before the execution of an agreement by all parties.

§ 19:38C-2.7 Approval and execution of agreement

No agreement is valid or binding on the Authority unless and until it is executed by the Authority.

§ 19:38C-2.8 Termination

All agreements executed pursuant to this chapter shall provide for, among other things, termination for the convenience of the Authority and for cause.

§ 19:38C-2.9 Disclosure and publicity

(a) Any and all submissions made in response to an RFQ and/or an RFP are subject to the provisions of the Open Public Records Act, *N.J.S.A. 47:1A-1* et seq., including the exceptions from disclosure provided therein.

(b) Consultants shall notify the Authority prior to the issuance of press releases and other public dissemination of information concerning a school facilities project and such shall acknowledge Authority financing and assistance in the undertaking of the school facilities project.

§ 19:38C-2.10 Performance evaluation

(a) The Authority shall have the right to consider the performance of a professional services consultant as a factor in the ranking of the consultant when evaluating proposals.

(b) Performance evaluations may include, but are not limited to, the following factors:

1. Quality of work;
2. Scheduling;
3. Management;
4. Cost control/amendments;
5. Subconsultants;
6. Close out; and
7. Any other factors affecting a consultant's performance.

§ 19:38C-3.1 Scope

This subchapter sets forth the procedural requirements applicable to the procurement of agreements for professional services consultants where such agreements specify compensation not exceeding the State bid advertisement threshold of \$ 36,000, as adjusted, pursuant to N.J.S.A. 52:34-7b, except for those procurements in which the Authority, at its sole option, determines to apply the procedures of N.J.A.C. 19:38C-5. This subchapter shall not apply to the procurement of appraisers or title insurance companies.

#### § 19:38C-3.2 Solicitation

In accordance with *N.J.S.A. 52:34-7*, the Authority shall not be required to advertise the procurement of agreements for professional services consultants where such agreements provide for compensation below the State bid threshold. The Authority reserves the right to waive any prequalification requirements for a procurement pursuant to this subchapter.

#### § 19:38C-3.3 Evaluation

Proposals shall be evaluated based on fees and/or the evaluation criteria appropriate for the particular procurement. The Authority may request clarifying technical and/or organizational information from any professional services consultant prior to finalizing the evaluation.

#### HISTORY:

Amended by R.2012 d.085, effective May 7, 2012.

See: *43 N.J.R. 3153(a)*, *44 N.J.R. 1551(a)*.

Substituted "fees and/or" for "price and", "Authority" for "Corporation", and "professional services consultant" for "entity submitting a proposal".

#### § 19:38C-3.4 Selection

The Authority shall select the proposal that is in the best interest of the school construction program, based on fees and/or the evaluation criteria established for the selection.

Title 19, Chapter 38C, Subchapter 4. (Reserved)

#### § 19:38C-5.1 Scope and applicability

This subchapter sets forth the procurement procedures that shall apply to agreements for professional services consultants with compensation exceeding the amount set forth in N.J.S.A. 52:34-7b. At the option of the Authority, the procedures specified in this subchapter may apply to an engagement with compensation below the amount set forth in N.J.S.A. 52:34-7b. This subchapter shall not apply to the procurement of appraisers or title insurance companies.

#### § 19:38C-5.2 Initiation

The procurement of a professional services consultant shall be initiated by the public advertisement of a request for qualifications, a request for proposals, or both, except in circumstances where a waiver of advertising is permitted under N.J.A.C. 19:38C-6.

#### § 19:38C-5.3 Selection committee

(a) Prior to the receipt of proposals, the Authority shall establish a selection committee or committees to review and evaluate the proposals. Each member of the selection committee shall have the relevant experience necessary to evaluate the proposals. Each member of a selection committee shall be responsible for independently evaluating and scoring the proposals.

(b) Once the responses are received and the identity of the vendors is ascertained and communicated to the members of the selection committee, each member of the selection committee, prior to the evaluation of any proposal, shall execute a certification that he or she has no personal interest, financial or familial, in any of the vendors to be evaluated, or the principals, subsidiaries, or parent companies thereof. Furthermore, should any of the selection committee members indicate that a conflict or personal interest exists once the identity of the vendors is revealed, that member shall not serve on the selection committee and may be replaced.

(c) The names of the members of the selection committee shall be made public once the contract is awarded, pursuant to *N.J.S.A. 52:34-10.3(c)*.

#### § 19:38C-5.4 Selection evaluation criteria

(a) The selection evaluation criteria may include the following: the firm's experience on projects of a similar size and nature; project team experience; past project performance; project approach; understanding of project needs and project schedule; and budget and cost estimating. Selection evaluation criteria may also include any other criteria as determined to be appropriate in the sole discretion of the Authority.

(b) The selection evaluation criteria and the specific weight assigned to each criterion for each professional services consultant procurement shall be established by the Authority prior to advertisement and the criteria and weights shall be incorporated into the RFQ and/or RFP for the procurement.

(c) When the procurement is for professional services consultants other than architects, engineers, and/or land surveyors, the Authority may provide that a fee proposal shall be one of the qualitative factors upon which professional services consultants will be evaluated.

#### § 19:38C-5.5 Selection evaluation process

(a) The members of the selection committee will evaluate the submissions and other information comprising the evaluation process and shall assign scores based upon the evaluation criteria stated in the RFQ and/or RFP.

(b) In addition to the review of responses to an RFQ and/or RFP the evaluation process may include:

1. Review of responses to requests for additional or clarifying information;
2. Participation in interviews; and/or
3. Any other components determined, in the sole discretion of the Authority, to be appropriate.

(c) Site visits, pre-proposal conferences, and interviews may be scheduled. Attendance shall be mandatory when so stipulated in the RFP or RFQ.

(d) The selection coordinator shall compile the evaluation scores of the committee members, as well as any points assigned in the consideration of a fee proposal in accordance with *N.J.A.C. 19:38C-5.7(a)*, if applicable, and shall prepare a ranking in accordance with the procedures specified in the RFQ and/or RFP, which shall be deemed a final ranking if no shortlisting process, as set forth in this section, is called for in the RFQ.

(e) If a shortlisting process is specified by the selection procedures described in the RFQ, the selection coordinator shall review the ranking and identify the short list of firms.

1. Once the short list is determined, the Authority shall publish the short list on the Authority's website and/or provide written notification to all firms that supplied responses to the RFQ of the names of the firms selected for the short list.



2. If additional information is required, the Authority shall request such information from all of the shortlisted firms prior to the final ranking. The members of the selection committee shall review and evaluate the additional information provided by the shortlisted firms, in accordance with the procedures specified in the RFQ and/or RFP, and shall assign scores based upon the evaluation criteria stated in the RFQ and/or RFP, as applicable. At the sole discretion of the Authority, interviews may be held with the shortlisted firms prior to the determination of the final ranking. The members of the selection committee shall evaluate the additional information, and interviews, if any, and shall assign scores to each. The selection coordinator shall combine all evaluation scores in accordance with the procedures outlined in the RFQ and/or RFP, and prepare a final ranking.

#### § 19:38C-5.6 Submission of fee proposals

A fee proposal shall be submitted in accordance with the process set forth in either an RFQ or RFP. A fee proposal shall be submitted in a separate sealed envelope. The envelope shall indicate clearly that it is the fee proposal and shall identify the firm's name, project number, and any other information required by the RFQ or RFP. The fee proposals shall remain sealed until such time as provided in *N.J.A.C. 19:38C-5.7(a)* or (b), as applicable.

#### § 19:38C-5.7 Consideration of fee proposals

(a) In the event the fee proposal is one of the qualitative factors for the evaluation of the proposals, the Authority shall open the sealed fee proposals and assign the maximum points to the lowest total fee proposal. All other proposals shall be scored based upon the percentage that each proposal exceeds the lowest proposal. The scores of the fee proposals shall then be utilized to finalize the ranking undertaken by the selection committee, pursuant to *N.J.A.C. 19:38C-5.5(d)*.

(b) In the event the fee proposal is not a qualitative factor for the evaluation of the proposal, the Authority shall open the sealed fee proposals at a predetermined date and time after the final ranking has been prepared. Using the fee proposals as a guide, the Authority shall negotiate an agreement with the highest-ranked consultant at a fee determined by the Authority to be fair and reasonable. Should the Authority be unable to negotiate a satisfactory fee with the highest-ranked consultant, the Authority shall terminate negotiations with the highest-ranked consultant, and may then terminate the procurement or may then undertake negotiations with the second-highest ranked consultant. Failing accord with the second highest-ranked consultant, the Authority shall terminate negotiations with the second highest-ranked consultant and may then terminate the procurement or may undertake negotiations with the third highest-ranked consultant. In the event that the Authority is unable to agree to a satisfactory fee with any of the three highest-ranked firms, the Authority may select additional consultants in the order of their ranking and continue negotiations, until either an agreement is reached or the procurement is canceled or terminated.

#### § 19:38C-5.8 Recommendation

Based on the process set forth in this subchapter, the selection coordinator shall recommend the most technically qualified consultant at final compensation determined to be fair and reasonable. If the recommendation is approved, the Authority will issue a written notice of award to the successful professional services consultant.

#### § 19:38C-5.9 Execution of agreement

Upon the successful professional services consultant's submission of any required documentation or materials as specified in the notice of award, and the Authority's acceptance of such documents, the Authority will execute the agreement and provide the successful professional services consultant with a fully-executed agreement.

#### § 19:38C-5.10 Confidentiality

The selection evaluations, rankings, negotiations, and fee proposals of all firms, as well as all discussions and correspondence, relating to the selection of a professional services consultant shall remain confidential and exempt from production under the Open Public Records Act, *N.J.S.A. 47:1-1* et seq., until a notice of award has been issued.

#### § 19:38C-6.1 Scope

This subchapter shall govern the procurement of an agreement through the Authority's grant of a waiver of advertising pursuant to *N.J.S.A. 52:34-10*. While the Authority shall normally procure professional services consultants through a competitive selection process initiated by advertising, in those limited situations where it is not possible, feasible or prudent to advertise, this subchapter shall apply to the procurement of professional services consultant agreements.

#### § 19:38C-6.2 Circumstances justifying waiver of advertising; pre-qualification

(a) The Authority may grant a waiver of public advertisement in the following limited circumstances:

1. The engagement to be made is with the Federal government, or any State government or any agency or political subdivision thereof;

2. A public exigency exists in which professional services must be purchased immediately and are necessary to mitigate an emergency situation;

3. Only one professional services consultant is capable of or available to provide the services at the time they are required; or

4. When the services required are available through participation in an existing contract between a vendor and any department, division, office, agency, bureau, or section of the United States, or any authority or instrumentality created or chartered thereby and any department, division, office, agency, bureau, or section of New Jersey or any state of the United States other than New Jersey, or any political subdivision thereof including, but not limited to, municipalities, or any other authority or instrumentality created or chartered thereby, provided that:

i. The existing contract was the result of a competitive selection process;

ii. The terms of the existing contract permit such Authority participation;

iii. The price of the services being procured is no greater than the price offered to the original governmental unit party to the existing contract;

iv. The Authority receives the benefit of any price reductions mandated by the original governmental unit party during the term of the existing contract and is protected from price increases during that time; and

v. The price of services being procured is no greater than the price of the same or equivalent goods or services under any existing New Jersey State contract.

(b) At the option of the Authority, the Authority may waive pre-qualification of a professional services consultant procured pursuant to public exigency under (a)2 above.

#### § 19:38C-6.3 Solicitation

(a) With respect to a circumstance arising under *N.J.A.C. 19:38C-6.2*, whenever practical, the Authority will undertake a competitive selection process for agreements of this type to the extent it is feasible and economical to do so. This less formal process may include obtaining at least three telephonic quotations or obtaining written quotations from at least three separate professional services consultants.

1. Proposals shall be evaluated based on proposed fees and the evaluation criteria appropriate for the particular procurement. The Authority may request clarifying technical and/or organizational information from any entity submitting a proposal, prior to finalizing the evaluation.

2. The Authority shall select the proposal that is in the best interest of the Authority and the school construction program, based on proposed fees and the evaluation criteria established for the selection.

3. The competitive selection process used shall be memorialized in the recommendation of award.

#### § 19:38C-7.1 Scope

This subchapter provides for the use of term agreements by the Authority to serve a variety of consultant needs in accordance with its statutory responsibilities to administer the schools construction program. This subchapter further provides for the issuance of task orders, in accordance with a term agreement.

#### § 19:38C-7.2 General requirements

(a) A term agreement is an agreement whereby the Authority may engage a professional services consultant or consultants for a defined period of time, rather than for a defined project or projects.

(b) Term agreements may be used by the Authority to retain professional services consultants when:

1. There is a need to expedite emergent projects or emergent project requirements;
2. There is a need to accomplish any study, evaluation, review, assessment, or other professional services relating to a school facilities projects on an "on call" basis; or
3. There is a need to address the program-wide requirements of the Authority.

(c) Procurement of a term agreement shall be in accordance with the selection procedures set forth at N.J.A.C. 19:38C-5, except that fee proposals may be based upon hourly or daily rates and/or other methods for determining costs over a specific time period.

(d) Term agreements shall be for a specific time period and maximum contract value, which shall be set forth in the term agreement. The Authority shall set forth a budget and schedule for each proposed task order under a term agreement prior to its assignment to a professional services consultant. The time in which services are to be performed under a task order may extend past the expiration date of a term agreement, as long as the task order was executed prior to the expiration date.

(e) The Authority may enter into a term agreement with any consultant engaged pursuant to the provisions of this chapter for a term, not to exceed three years, unless a longer time period is expressly authorized by law, and for a value that shall not exceed a ceiling stated in the agreement.

(f) Notwithstanding the foregoing, term agreements for provision of professional services in litigation matters shall be for a term not to exceed two years, pursuant to Executive Order No. 37 (2006).

#### § 19:38C-7.3 (Reserved)

#### § 19:38C-7.4 (Reserved)

#### § 19:38C-8.1 Scope

This subchapter, exclusively, shall govern the Authority's engagement of title insurance companies.

#### § 19:38C-8.2 Master list

The Authority shall establish and maintain a master list of title insurance companies, which are on the list of title insurance companies authorized to write title insurance policies in New Jersey as compiled by the New Jersey Depart-

ment of Banking and Insurance and rated "A" or higher by a major credit rating agency. The master list shall be updated by the Authority on a quarterly basis.

#### § 19:38C-8.3 Procurement by competitive bidding for individual engagement

(a) When the Authority deems it in the best interest of a school facilities project or the school construction program to make use of an individual competitive procurement to secure title insurance, it shall solicit proposals for title insurance by means of a request for proposals presented to at least three separate title insurance companies randomly selected from the master list. Authority staff shall prepare a memorandum indicating the number of entities contacted and the number of proposals received, including prices.

(b) The proposals shall be evaluated by the Authority based on price and the title insurance company's experience with the property or area comprising and surrounding the site for the particular school facility at issue. The Authority may request clarifying technical and/or organizational information from those entities submitting proposals prior to determining the final ranking.

#### § 19:38C-8.4 Procurement through term agreements specifying fixed rates

(a) In the event that the Authority determines that it would be in the best interest of the school construction program to make use of a term agreement approach to the procurement of title insurance, it may extend an offer to all title insurance companies on the master list to enter into an agreement that may extend for a term not to exceed three years. The compensation paid under any such term agreement shall be in accordance with a fixed schedule of rates and charges, and the contract value shall not exceed a stated ceiling during its term. The Authority may extend such term agreement offers at such frequency as it determines is in the best interest of the school construction program, provided that no title insurance company may be engaged under more than one such term agreement at a time. All term agreements with title insurance companies shall provide for, among other things, termination for the convenience of the Authority and termination for cause.

(b) During the term of such an agreement, the Authority may assign to a title insurance company one or more task orders identifying specific properties or sites for which to provide title insurance for purposes of one or more school facilities projects based upon the following criteria:

1. The title insurance company's experience with the property or area comprising and surrounding the site for the particular school facility at issue;
2. Present capacity of the firm to provide the required services; and
3. Equitable allocation of task order assignments among all title insurance companies engaged by the Authority under a term agreement.

#### § 19:38C-9.1 Scope

This subchapter, exclusively, shall govern the engagement of appraisers.

#### § 19:38C-9.2 Master list

(a) The Authority shall establish and maintain and update on a quarterly basis, a master list of appraisers. The master list shall be created based upon the list of appraisers maintained by the New Jersey Department of Transportation and the list of appraisers previously engaged by the Authority. Firms may apply for inclusion on the master list by submitting to the Authority a statement of qualifications, which shall include, but not limited to, the following:

1. A resume;
2. Experience with condemnation projects carried out by governmental entities and a full description of same; and

3. Experience with other governmental entities.

(b) Authority staff shall evaluate the statement of qualifications submitted by a firm seeking inclusion in the master list-based criteria including:

1. The firm's experience with condemnation projects carried out by governmental entities; and
2. The firm's compliance with the Uniform Standards of Professional Appraisal Practice, as published annually by the Appraisal Standards Board of the Appraisal Standards Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, DC 20005.

#### § 19:38C-9.3 Procurement by competitive bidding for individual engagement

(a) When the Authority deems it is in the best interest of a school facilities project or the school construction program to make use of an individual competitive procurement to engage an appraiser, it shall solicit proposals for appraisal services by means of a request for proposals presented to at least three separate appraisers chosen from the master list based upon the following:

1. Geographic proximity to the school facilities project; and
2. If applicable, the need for a particular specialty.

(b) The Authority shall prepare a memorandum indicating the number of entities contacted and of proposals received, including prices.

(c) The proposals will be evaluated by the Authority based on price and the following evaluative criteria:

1. Licensing status;
2. Professional designations;
3. Previous experience on similar projects;
4. Geographic proximity to the school facilities project; and
5. Present capacity of a firm to complete solicited services.

(d) The Authority may request clarifying technical and/or organizational information from those entities submitting proposals prior to determining the final ranking.

#### § 19:38C-9.4 Procurements through term agreements specifying fixed rates

(a) In the event that the Authority determines that it would be in the best interest of the school construction program to make use of a term agreement approach to the procurement of appraisal services, it may extend an offer to all firms on the master list to enter into an agreement that may extend for a term not to exceed three years. The compensation paid under any such term agreement shall be in accordance with a fixed schedule of rates and charges and the contract value shall not exceed a stated ceiling during its term. The Authority may extend such term agreement offers at such frequency as it determines is in the best interest of the school construction program, provided that no appraiser may be engaged under more than one such term agreement at a time. All term agreements with appraisers shall provide for, among other things, termination for the convenience of the Authority and termination for cause.

(b) During the term of such an agreement, the Authority may assign to an appraiser a task order identifying specific sites to appraise for purposes of one or more school facilities projects based upon the following criteria:

1. Licensing status;
2. Professional designations;
3. Previous experience on similar projects;
4. Geographic proximity to the school facilities project or projects;

5. Present capacity of the firm to complete the required services; and
6. Equitable allocation of task order assignments among all appraisers engaged by the Authority under a term agreement.

#### § 19:38C-10.1 General requirements

Experts for litigation support or real estate transaction support may be retained through outside counsel on behalf of the Authority, or procured directly by the Authority, using any of the procurement methods set forth in this chapter.

#### § 19:38C-11.1 Scope and purpose

(a) This subchapter sets forth the procedures that govern protests and administrative hearings regarding the Authority's conduct of procurements for professional services consultants, including protests challenging:

1. The form of advertisements for procurement;
2. The form of the RFQ or the RFP for a given procurement;
3. The scoring of proposals or the ranking of firms;
4. The selection of professional services consultants for unadvertised procurements under N.J.A.C. 19:38C-3 or 6;
5. The issuance of a task order under a term agreement under *N.J.A.C. 19:38C-7.4*; and
6. Performance evaluations for professional services consultants.

(b) For purposes of this subchapter, protests of the type described in (a) above are not contested cases subject to the requirements of the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq.

#### § 19:38C-11.2 Subject matter, time limitations, and who may request hearings

(a) Administrative hearings before the Authority may include the following subject matter and may be requested by the following entities:

1. RFQ process or documents. A consultant that has submitted or intends to submit a proposal in response to an RFQ, may request an informal hearing before the Authority to protest the RFQ process or documents by submitting a written protest to the Authority at least five business days prior to the date and time scheduled for receipt of proposals, setting forth in detail the grounds for such protest. The protest must contain all legal and factual arguments, materials, or other documents that support the protestor's position, and must indicate whether the protestor requests an informal hearing. The Authority may deny any protest that is filed less than five business days prior to the date and time scheduled for receipt of proposals, or that fails to provide the specific reasons for, and arguments supporting, the protest;

2. RFP process or documents. A consultant that has submitted or intends to submit a proposal in response to an RFP, may request an informal hearing before the Authority to protest the RFP process or documents, by submitting a written protest to the Authority setting forth in detail the grounds for such protest, at least five business days prior to the date and time scheduled for receipt of the proposals. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position, and must indicate whether the protestor requests an informal hearing. The Authority may deny any protest that is filed less than five business days prior to the date and time scheduled for receipt of proposals, or that fails to provide the specific reasons for and arguments supporting the protest;

3. Short list. A consultant protesting its failure to be included in a short list, or protesting the inclusion of another consultant on a short list, may request an informal hearing before the Authority to protest the selection of the short list, by submitting to the Authority a written protest setting forth the specific grounds for challenging the short list, within five business days of the public announcement of the short list. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public an-

nouncement of the short list, or any protest that fails to provide the specific reasons for and arguments supporting the protest;

4. Master list. An appraiser or title insurance firm protesting its failure to be included in a master list may request an informal hearing before the Authority to protest the composition of the master list by submitting to the Authority a written protest setting forth the specific grounds for challenging the composition of the master list, within five business days of notification of the firm's failure to be included on the master list. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after notification of the firm's failure to be included on the master list, or any protest that fails to provide the specific reasons for and arguments supporting the protest;

5. Award of contract. A consultant that has submitted a proposal in response to an RFQ or RFP may request an informal hearing before the Authority to protest the award of a contract to another professional services consultant by submitting to the Authority a written protest, setting forth the specific grounds for challenging such award, within five business days of the public announcement of the award. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the award, or any protest that fails to provide the specific reasons for and arguments supporting the protest;

6. Unadvertised contracts. A professional services consultant may request an informal hearing before the Authority to protest the award of a contract to another professional services consultant by submitting to the Authority a written protest setting forth the specific grounds for such protest, within five business days of the public announcement of the award of the contract. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the award, or any protest that fails to provide the specific reasons for and arguments supporting the protest;

7. Task order assignment. A professional services consultant that has received an award under a term agreement procurement may request an informal hearing before the Authority to protest the award or assignment of a task order to another professional services consultant, by submitting to the Authority a written protest setting forth the specific grounds for such protest, within five business days of the public announcement of the award or assignment of the task order. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the award or assignment of the task order, or any protest that fails to provide the specific reasons for and arguments supporting the protest; or

8. Performance evaluation. A professional services consultant that is dissatisfied with its performance evaluation on an Authority project may request an informal hearing before the Authority by submitting to the Authority a written protest setting forth the specific grounds for such protest, within 15 calendar days after the date of receipt of written notification of the performance evaluation. The protest must contain all factual and legal arguments, materials, or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than 15 calendar days after the consultant's receipt of written notification of the performance evaluation, or any protest that fails to provide the specific reasons for and arguments supporting the protest.

#### § 19:38C-11.3 Hearing procedures

##### (a) Hearing procedures shall be as follows:

1. The Authority, in its sole discretion, shall determine whether to grant an informal hearing regarding any protest. Informal hearings are for fact-finding purposes for the benefit of the Authority and the Authority shall have the sole discretion as to whether to hold an informal hearing. Alternatively, the Authority may determine that sufficient information already exists in the record, so that a decision may be made without a hearing, and the Authority may issue a final agency decision accordingly. In the event that the Authority determines that a hearing is not necessary, a written decision will be issued by the Authority within five business days of receipt of all documents related to the protest.

2. Informal hearings will be held, where feasible, within 14 business days of the receipt of the request. Hearings will be heard, where practicable, by a hearing officer designated by the Chief Executive Officer. The hearing officer shall issue a final written decision within 30 calendar days of the conclusion of the hearing unless, due to the circumstances of the hearing, a greater time is required. For all protests of the RFQ or RFP processes and documents, the written decision will issue prior to the opening of proposals. If a decision based upon a protest results in a modification of the aforesaid process or documents, such decision shall be conveyed by addendum to all consultants eligible for the procurement at issue.

3. In an informal hearing, the Authority may, in instances where public exigency exists or where there is potential for substantial savings to the State, modify or amend the time frames or any other requirements provided in this subchapter. In these instances, the Authority shall document, for the record, the rationale for such amendment and give adequate notice to the parties involved.

4. For matters of dispute that may occur relative to the activities of the Authority, if formal hearings are warranted, such hearings will be held by the Chief Executive Officer or his or her designee, or by an Administrative Law Judge pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.* and *52:14F-1 et seq.*, as applicable.

5. The Board of the Authority, or the Chief Executive Officer, as its designee, shall determine whether a matter constitutes a contested case and shall retain or refer any such matter for hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.* and *52:14F-1 et seq.* Upon filing of the initial pleading in a contested case, the Board of the Authority may by resolution either retain the matter for hearing directly or transmit the matter for hearing before the Office of Administrative Law. Such hearings shall be governed by the provisions of 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*.



***Resolution—6b.***

Extension of Existing Regulations: Notice of Re-adoption (without Amendments)  
Procurement of Architects, Engineers, Land Surveyors and other Professional  
Services Consultants N.J.A.C. 19:38C

**Resolution**

**WHEREAS**, P.L. 2007, 137 (N.J.S.A. 52:18A-238(k)) requires that the Members of the New Jersey Schools Development Authority (SDA or the Authority) adopt, amend and repeal rules and regulations to carry out the provisions of P.L. 2000, c. 72 (C. 18A:7G-1 et seq.) and P.L. 2007, c. 137 (C. 52:18A-235 et seq.); and

**WHEREAS**, On March 2, 2012, the Members of the Authority approved for final adoption regulations governing the Procurement of Architects, Engineers, Land Surveyors and other Professional Services Consultants, N.J.A.C. 19:38C (the Rules); and

**WHEREAS**, the Rules were formally published in the New Jersey Register on April 4, 2012 and are due to expire on April 4, 2019; and

**WHEREAS**, the Rules address requirements for prequalification, advertisement, evaluation and selection in procurements for professional services consultants; procedures regarding cancellation of procurements; inclusion of required contract terms for termination, records retention, disclosure and publicity; and provisions for performance evaluations of engaged consultants; and

**WHEREAS**, the Rules further address selection procedures for procurement of professional services contracts that exceed the state bidding threshold pursuant to N.J.S.A. 52:34-7b as amended, as well as procedures for procurements that do not exceed the state threshold; procedures for procurements subject to a waiver of advertising; procedures for procurement of term contracts for professional services; procurements of title insurance companies, appraisers, and experts; and provisions for protests and hearing procedures for objections relating to procurements of professional services consultants; and

**WHEREAS**, State agencies and authorities may utilize a Notice of Re-adoption process to seek additional time to review or modify existing rules, or to ensure that underlying rules do not expire while the agency pursues substantive amendments through the normal proposal, publication, public comment and adoption process; and

**WHEREAS**, while the Notice of Re-adoption process effectuates the re-adoption of rules and, therefore, automatically extends the rules for the normal seven-year rule duration, it is the intention of management to act expeditiously to develop any amendments needed to correct or improve the Rules, and to submit any proposed amendments to external entities for review and validation, before seeking approval from the Board for a proposed re-adoption with amendments to the Rules; and

**WHEREAS**, pending expiration of the Rules on April 4, 2019, a Notice of Re-adoption was sent to the Office of Administrative Law (OAL) to meet the statutory 30-day filing requirement, but processing of the re-adoption and extension is suspended pending the Board's ratification of the Notice; and

**WHEREAS**, management is seeking the Members' ratification of its filing of a Notice of Re-adoption to extend the expiration of the Rules, an expedited process that permits regulations to be readopted without amendments and without prior publication or public comment, pursuant to a filing of the Notice of Re-adoption with the OAL, at least thirty days prior to the expiration of the regulations; and

**WHEREAS**, the proposed Notice of Re-adoption process will involve no amendments or modifications to the Rules and, upon re-adoption, the Rules will remain in their current form; and

**WHEREAS**, a complete copy of the Rules was provided to the Members of the Authority for review; and

**WHEREAS**, SDA management recommends that the Members ratify the Authority's use of the Notice of Re-adoption process to effectuate the re-adoption and extension of the Rules consistent with the memorandum presented to the Board on this date and incorporated herein.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby ratify management's use of the Notice of Re-adoption process to re-adopt and extend the Rules, utilizing the attached Notice of Re-adoption filed with the Office of Administrative Law, which, upon ratification, will be processed for publication in the New Jersey Register.

**BE IT FURTHER RESOLVED**, that the Members of the Authority acknowledge and authorize this re-adoption and extension in order to facilitate further review of the existing rules, consideration of any needed amendments, and the opportunity to secure required external reviews of any proposed modifications before proceeding with a full proposal and adoption of any such amendments.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Extension of Existing Regulations, Notice of Re-adoption (without Amendments), N.J.A.C. 19:38C, Procurement of Architects, Engineers, Land Surveyors and other Professional Services Consultants, dated April 3, 2019

Dated: April 3, 2019

**EXTENSION OF EXISTING REGULATIONS: NOTICE OF READOPTION (WITHOUT AMENDMENTS) - PROCUREMENT OF GOODS AND SERVICES, N.J.A.C. 19:38D**



### MEMORANDUM

**TO:** Members of the Authority

**FROM:** Jane Kelly, Vice President, Corporate Governance and Legal Affairs  
Cecelia Haney, Deputy Chief Counsel and Administrative Practice Officer

**DATE:** April 3, 2019

**RE:** Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procurement of Goods and Services, N.J.A.C. 19:38D

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On March 2, 2012 the Members of the NJSDA Board approved for final adoption regulations for the Procurement of Goods and Services, N.J.A.C. 19:38D (“the Rules”). The Rules were formally published in the New Jersey Register on April 4, 2012 and will expire on April 4, 2019.

Management of the Authority now seeks the Members’ ratification of the filing of a Notice of Readoption to extend the expiration of the Rules, an expedited process that permits regulations to be readopted, without amendments, and without prior publication or public comment, pursuant to a filing of the Notice of Readoption with the Office of Administrative Law, at least thirty days prior to the expiration of the regulations. Due to the expiration of the Rules on April 4, a Notice of Readoption has already been sent to the Office of Administrative Law to meet the statutory 30-day filing requirement, but processing of the readoption and extension is suspended pending the Board’s ratification of the Notice.

This Notice of Readoption process is typically used by State agencies and authorities to seek additional time to review or modify existing rules, or to ensure that underlying rules do not expire while the agency pursues substantive amendments through the normal proposal, publication, public comment and adoption process. While the Notice of Readoption process effects readoption of the rules, and therefore automatically extends the rules for the normal seven-year rule duration, it is the intention of Management to act in short order to develop any amendments needed to correct or improve the Rules, and to submit any proposed amendment to external entities for review and validation, before seeking approval from the Board for a proposed readoption with amendments to the Rules.

#### **Background**

As noted above, the proposed Notice of Readoption process will involve no amendments or modification to the Rules, and upon readoption the Rules will remain in their current form. The

Rules establish requirements, standards and procedures for the Authority's procurement of goods and services. A full copy of the Rules is provided with this memorandum.

The rules address general provisions and requirements for procurements of goods and services, including: the purpose and scope of the rules; the definition of terms used in the rules; requirements for prequalification, advertisement, evaluation and selection in procurements for goods and services; procedures regarding cancellation of procurements; and inclusion of required contract terms for termination, records retention, disclosure and publicity. The rules address selection procedures for procurement of goods and services contracts that exceed the state bidding threshold pursuant to N.J.S.A. 52:34-7b as amended, as well as procedures for procurements that do not exceed the state threshold; procedures for procurements subject to a waiver of advertising; procedures for procurement of term contracts; and provisions for protests and hearing procedures for objections relating to procurements of goods and services.

#### **Requested Board Action**

The Members of the Authority are requested to ratify the use of the Notice of Readoption process to effect the readoption and extension of the Rules, utilizing the attached Notice of Readoption filed with the Office of Administrative Law, which, upon ratification, will be processed for publication in the New Jersey Register. This readoption and extension will permit further review of the existing rules, consideration of any needed amendments, and opportunity to secure required external reviews of any proposed modifications before proceeding with a full proposal and adoption of any such amendments.

/s/Jane F. Kelly

Jane F. Kelly, Vice President  
Corporate Governance & Legal Affairs

Prepared by Cecelia Haney, Deputy Chief Counsel and Administrative Practice Officer

JFK/ceh

## **OTHER AGENCIES**

### **NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY**

#### **Notice of Readoption**

#### **Procurement of Goods and Services**

#### **Readoption: N.J.A.C. 19:38D**

Authority: N.J.S.A. 52:18A-238k

Authorized By: Lizette Delgado Polanco, Chief Executive Officer, New Jersey Schools Development Authority.

Effective Date: March 4, 2018.

New Expiration Date: March 25, 2025.

**Take notice that**, in accordance with N.J.S.A. 52:14B-1, the rules at N.J.A.C. 19:38D were to expire on April 4, 2019. Chapter 38D establishes the requirements, standards, and procedures for the Authority's procurement of goods and services.

The rules address general provisions and requirements for procurements of goods and services, including: the purpose and scope of the rules; the definition of terms used in the rules; requirements for prequalification, advertisement, evaluation and selection in procurements for goods and services; procedures regarding cancellation of procurements; and inclusion of required contract terms for termination, records retention, disclosure and publicity. The rules address selection procedures for procurement of goods and services contracts that exceed the state bidding threshold pursuant to N.J.S.A. 52:34-7b as amended, as well as procedures for procurements that do not exceed the state threshold; procedures for procurements subject to a waiver of advertising; procedures for procurement of term contracts; and provisions for protests and hearing procedures for objections relating to procurements of goods and services.

The New Jersey Schools Development Authority is in the process of reviewing the existing rules to determine if revisions or amendments are needed, and anticipates that a Notice of Proposal for Readoption with Amendments will be issued in the near future. However, in the interim, the New Jersey Schools Development Authority has reviewed the rules at N.J.S.C. 19:38D and has determined them to be necessary, reasonable and responsive to the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1c(1) and N.J.A.C. 1:30-6.4(h), N.J.A.C. 19:38D is readopted and shall continue in effect for a seven year period.

Approved: /s/ Lizette Delgado Polanco  
Lizette Delgado Polanco  
Chief Executive Officer, NJSDA

Date: March 4, 2019

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\*\*\* New Jersey Register, Vol. 47 No. 4, February 17, 2015 \*\*\*

TITLE 19. OTHER AGENCIES  
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY  
CHAPTER 38D. PROCUREMENT OF GOODS AND SERVICES

*N.J.A.C. 19:38D (2015)*

Title 19, Chapter 38D -- Chapter Notes

CHAPTER AUTHORITY:

P.L. 2007, c. 137, § 4k (N.J.S.A. 52:18A-238k) (rulemaking authority); P.L. 2000, c. 72 (*N.J.S.A. 18A:7G-1* et seq.); P.L. 2007, c. 137, (*N.J.S.A. 52:18A-235* et seq.) (enabling statutes); and P.L. 1997, c. 399 (*N.J.S.A. 52:34-9.1* et seq.) (related authority).

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2012 d.086, effective April 4, 2012.

See: *43 N.J.R. 3168(a)*, *44 N.J.R. 1558(a)*.

CHAPTER EXPIRATION DATE:

Chapter 38D, Procurement of Goods and Services, expires on April 4, 2019.

CHAPTER HISTORICAL NOTE:

Chapter 38D, Procurement of Goods and Services, was adopted by R.2005 d.61, effective February 7, 2005. See: *36 N.J.R. 4096(a)*, *37 N.J.R. 522(a)*.

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from February 7, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq.

Chapter 38D, Procurement of Goods and Services, was readopted as R.2012 d.086, effective April 4, 2012. As a part of R.2012 d.086, Subchapter 4, Category Two Selection Procedures, Subchapter 5, Category Three Selection Procedures, Subchapter 7, Category Five Selection Procedures, Subchapter 8, Category Six Selection Procedures and Subchapter 9, Category Seven Selection Procedures, were repealed; Subchapter 4, Selection Procedures--Agreements Exceeding the State Bid Threshold, as Adjusted, Pursuant To N.J.S.A. 52:34-7b, Subchapter 5, Term Agreements, and Subchapter 7, Protests and Hearing Procedures, were adopted as new rules; Subchapter 3, Category One Selection Procedures, was renamed Selection Procedures--Agreements not Exceeding the State Bid Threshold Pursuant to N.J.S.A. 52:34-7b; and Subchapter 6, Category Four Selection Procedures, was renamed Waiver of Advertising, effective May 7, 2012. See: Source and Effective Date. See, also, section annotations.

§ 19:38D-1.1 Purpose and scope of rules



This chapter is designed to establish the procedures applicable to the award of contracts by the Authority for goods and services required for implementation of the school construction program, excluding services subject to P.L. 1997, c. 399, *N.J.S.A. 52:34-9.1 et seq.*, and *N.J.A.C. 19:38C*.

#### § 19:38D-1.2 Definitions

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

"Act" means the "Educational Facilities Construction and Financing Act," P.L. 2000, c. 72 (*N.J.S.A. 18A:7G-1 et seq.*) as amended, which mandates the school construction program.

"Agreement" means the written agreement between the Authority and the vendor for the provision of goods and/or services.

"Authority" or "SDA" means the New Jersey Schools Development Authority, an entity formed pursuant to P.L. 2007, c. 137, *N.J.S.A. 52:18A-235 et seq.*, as successor to the New Jersey Schools Construction Corporation. The Authority is statutorily charged with undertaking and funding school facilities projects, pursuant to the Act.

"Board" means the governing body of the Authority, consisting of members of the Authority as outlined in *N.J.S.A. 52:18A-237*.

"Compensation" means the payment due the vendor pursuant to the agreement.

"Corporation" or "SCC" means the New Jersey Schools Construction Corporation, the entity formed pursuant to *N.J.S.A. 34:1B-159* and the predecessor to the Authority, which was abolished by P.L. 2007, c. 137.

"Department" means the New Jersey Department of Education.

"Emergent project" means a capital project necessitating expedited review and, if applicable, approval, in order to alleviate a condition that, if not corrected on an expedited basis, would render a building or facility so potentially injurious or hazardous that it causes an imminent peril to the health and safety of students or staff, as defined by *N.J.A.C. 6A:26-1.2*.

"Fee proposal" means the proposal submitted by a vendor, in the form and manner provided in the request for qualifications or request for proposals, which specifies the fees proposed for the provision of goods and/or services.

"Goods" means fixtures, furnishings, equipment, technology and any other items the procurement of which the Authority deems necessary for the school construction program. For purposes of this chapter, "goods" shall not include materials to be provided in connection with the provision of services pursuant to an agreement entered into by the Authority pursuant to *N.J.A.C. 19:38C* or *N.J.S.A. 52:18A-243*.

"Key personnel" means those persons named by a vendor in response to a requirement in an RFQ or RFP for specific identification of employees or personnel having a responsible role in the successful delivery of goods or services proposed by a vendor.

"Moral integrity review" means an investigation, performed by the Authority or members of the New Jersey State Police or other investigative body on behalf of the Authority, of a vendor that seeks to enter an agreement with the Authority.

"Notice of award" means a written notice issued to a vendor by the Authority indicating that the vendor has been selected to provide certain goods or services pursuant to an Authority procurement process, and that upon the Authority's receipt of certain required documentation, the Authority intends to enter an agreement with the vendor for the provision of those goods and/or the performance of those services.

"Other facilities" means those facilities that are not school facilities projects as defined by the Act, namely, athletic stadiums, swimming pools, any associated structures or related equipment tied to such facilities including, but not limited to, grandstands and night field lights, greenhouses, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration.

"Pre-qualified" or "pre-qualification" means the approval of a vendor by the Authority pursuant to *N.J.A.C. 19:38A*.

"Proposal" means the response submitted by a firm with respect to a request for qualifications or a request for proposals.

"Protest" means a challenge to a decision, statement, action, or alleged inaction of the Authority.

"Ranking" means the process of listing responsive vendors in order of highest to lowest total scores, based upon selection criteria set forth in the RFQ and/or RFP.

"Request for proposals" or "RFP" means the solicitation issued by the Authority in connection with the selection of a vendor.

"Request for qualifications" or "RFQ" means the request for statements of qualifications issued by the Authority seeking submissions from vendors including statements of qualifications, experience and/or organizational information, as well as any additional information deemed necessary by the Authority, in connection with the selection of a vendor.

"Schedule of goods" means the goods required to be provided by a vendor under an agreement.

"School construction program" means the program of school facilities projects and related activities undertaken by the Authority.

"School facilities project" means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction, or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs, and expenses incurred in connection with the project.

"School facility" means and includes any structure, building or facility used wholly or in part for academic purposes by a district, and facilities that physically support such structures, buildings and facilities, such as district wastewater treatment facilities, power generating facilities, and steam generating facilities, but shall exclude other facilities, as elsewhere defined herein.

"Scope of services" means the extent of obligations contractually required from a vendor pursuant to an agreement.

"SDA school district" means a school district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year, as defined at P.L. 2007, c. 260, § 39, *N.J.S.A. 18A:7G-3*.

"Selection committee" means the group(s) responsible for review and evaluation of vendors' responses to RFQs and/or RFPs in connection with a procurement, when the compensation for the engagement is anticipated to exceed the State bid advertisement threshold pursuant to *N.J.S.A. 52:34-7b*.

"Selection coordinator" means the administrator of the operations and procedures of the selection process, whose activities shall include, but are not limited to, scheduling of meetings, preparing agendas, recording scores, preparing minutes of selection committee meetings and other similar administrative duties.

"Services" means the duties and responsibilities to be performed by the vendor pursuant to the agreement, including all other labor, materials and equipment provided or to be provided to fulfill such obligations, except that, for purposes of these policies and procedures, "services" shall not include:

1. Any "architectural, engineering or land surveying services" within the meaning of *N.J.S.A. 52:34-9.2*;
2. Services procured under the procedures established at *N.J.A.C. 19:38C*; and
3. Services subject to the procurement requirements established at *N.J.S.A. 52:18A-243*.

"Small business enterprise" or "SBE" means a firm that is registered as a "small business" with the New Jersey Department of the Treasury, Division of Minority and Women Business Development pursuant to *N.J.A.C. 17:14-3.1*.

"Task order" means a contractual document, containing a scope of work, negotiated costs, and schedule, which the Authority issues to a vendor, pursuant to a term agreement.

"Term agreement" means an agreement whereby the Authority may engage a vendor for a defined period of time, as provided in this chapter.

"Vendor" means a provider of goods and/or services.

#### § 19:38D-2.1 Scope

This subchapter sets forth requirements applicable to procurements of goods and/or services for the Authority.

#### § 19:38D-2.2 Pre-qualification and moral integrity review

(a) For all procurements requiring pre-qualification pursuant to *N.J.A.C. 19:38A*, vendors must be pre-qualified by the Authority at the time of submission of a response to an RFQ and/or an RFP, except if otherwise expressly provided in this chapter.

(b) All vendors seeking to enter into an agreement with the Authority are subject to a moral integrity review, even where Authority pre-qualification is not required. If the results of the moral integrity review are negative or unsatisfactory in that they indicate any circumstance that would justify a revocation of pre-qualification under *N.J.A.C. 19:38A-4.1*, the Authority shall reject the vendor's proposal pursuant to *N.J.A.C. 19:38D-2.6*.

#### § 19:38D-2.3 Selection procedures based on type of engagement

The Authority may establish different procedures as set forth in this chapter, for the selection of vendors based on the contract type or value of the engagement.

#### § 19:38D-2.4 General evaluation criteria

(a) The ranking of vendors shall be performed pursuant to evaluation criteria established by the Authority for each particular procurement and by the weights established for such criteria. In selecting the most highly qualified vendor, the selection committee shall consider the criteria and relative weights of such criteria, as set forth in the RFP and/or RFQ. Such evaluation criteria may include:

1. The experience of the vendor, and its key personnel, on projects similar in scope, size, complexity;
2. The ability of the vendor and its key personnel, to provide the required goods or services;
3. The approach set forth by the vendor with respect to the provision of the goods or services in its proposal;
4. The proposed staffing, including, but not limited to, the extent to which the ability of the vendor to fulfill the contract may be affected or compromised by the commitment of staff to another contract with the Authority, or to contracts with any other public or private entity;
5. Performance by the vendor of the goods or services on other work undertaken or funded by the Authority;
6. The proximity of the vendor of the goods or services to the site of the school facility at issue;
7. In the case of the provision of goods, the durability, and/or construction of, and related warranty provisions affecting, the goods in question; and/or
8. Such other criteria as the Authority may determine to be appropriate to a specific procurement and which shall be set forth in the pertinent advertisement and request for proposals.

(b) To the extent required by law or by order of a court of competent jurisdiction, the Authority shall abide by the provisions of *N.J.S.A. 52:32-17 et seq.*, and all applicable regulations, with respect to SBEs. Nothing in this chapter shall be construed to limit the Authority's ability to obtain goods or services pursuant to an SBE set-aside procurement pursuant to *N.J.A.C. 19:39*.

§ 19:38D-2.5 Rejection of proposals; cancellation of procurement or award

(a) Proposals received after the submission date and time prescribed in the RFQ or RFP shall be rejected.

(b) The Authority may reject any proposal for any reason in accordance with law, when it is otherwise deemed to be in the public interest to do so. The Authority may reject all proposals and cancel a procurement for excessive cost, insufficient competition, or any other reason, in accordance with law, that it deems to be in the public interest. The Authority may cancel an award at any time before the execution of an agreement by all parties.

§ 19:38D-2.6 Approval and execution of agreement

No agreement is valid or binding on the Authority unless and until it is executed by the Authority.

§ 19:38D-2.7 Termination

All agreements executed pursuant to this chapter shall provide for, among other things, termination for convenience and for cause.

§ 19:38D-2.8 Disclosure and publicity; records access and retention

(a) Any and all submissions made in response to an RFP and/or an RFQ are subject to the provisions of the Open Public Records Act, *N.J.S.A. 47:1A-1* et seq., including the exceptions from disclosure provided therein.

(b) Vendors shall notify the Authority prior to the issuance of press releases and other public dissemination of information concerning a school facilities project and such shall acknowledge Authority financing and assistance in the undertaking of the school facilities project.

(c) The Authority and any vendor subject to this chapter shall retain all records relating to goods or services provided under the agreement with the Authority for a specified period following expiration or termination of the agreement, as indicated in the agreement and as specified in the Authority's document retention schedule. All such records shall be provided to the Authority upon written demand, at no cost to the Authority. In the event that any litigation, claim, audit or request pursuant to the Open Public Records Act, *N.J.S.A. 47:1A-1* et seq., relating to the procurement and the provision of such services is commenced prior to expiration or termination of the agreement, such records shall be retained until all litigation, claims, audit findings, document requests, and related appeals, if any, have been resolved with finality.

§ 19:38D-2.9 Advertising

(a) The Authority shall advertise for all procurements in accordance with *N.J.S.A. 52:18A-243(h)*. In addition, such advertising may also be placed:

1. In pertinent trade publications with distribution in New Jersey;
2. By written notice to New Jersey professional societies or trade organizations; and/or
3. By use of direct mailings to appropriately selected firms.

(b) Any such advertisement shall be made in the form and in the time required to promote competition and shall describe any specific information that an interested vendor must submit, as well as the date and time of the deadline for submissions.

(c) The advertisement shall specify the evaluation criteria that shall apply to the proposals.

#### § 19:38D-3.1 Scope

This subchapter sets forth the procedural requirements applicable to the procurement of agreements for goods and/or services where such agreements specify compensation that does not exceed the State bid threshold of \$ 36,000, as adjusted, pursuant to N.J.S.A. 52:34-7b, except for those procurements in which the Authority, at its sole option, determines to apply the procedures of N.J.A.C. 19:38D-4. The Authority reserves the right to waive any pre-qualification requirement for a procurement pursuant to this subchapter.

#### § 19:38D-3.2 Solicitation

In accordance with N.J.S.A. 52:34-7b, the Authority shall not be required to advertise the procurement of agreements for goods and/or services where such agreements provide for compensation below the State bid threshold.

#### § 19:38D-3.3 Evaluation

Proposals shall be evaluated based on fees and/or the evaluation criteria appropriate for the particular procurement. The Authority may request clarifying technical and/or organizational information from any vendor submitting a proposal prior to finalizing the evaluation.

#### § 19:38D-3.4 Selection

The Authority shall select the proposal that is in the best interest of the Authority and the school construction program, based on fees and/or the evaluation criteria established for the selection.

#### § 19:38D-4.1 Scope

This subchapter sets forth procedures that shall apply to the procurement of agreements for goods and/or services where such agreements specify compensation exceeding the amount set forth in N.J.S.A. 52:34-7b. At the option of the Authority, the procedures specified in this subchapter may apply to an engagement with compensation below the amount set forth in N.J.S.A. 52:34-7b.

#### § 19:38D-4.2 Initiation

A procurement for the provision of goods and/or services under this chapter shall be initiated by the public advertisement of an RFQ, RFP, or both, except in circumstances where a waiver of advertising is permitted under N.J.A.C. 19:38D-6. The RFQ or RFP shall include the schedule of goods or the scope of services sought under the procurement, as well as the form of agreement and other related documents.

#### § 19:38D-4.3 Selection committee

(a) Prior to the receipt of vendor proposals, the Authority shall establish a selection committee or committees to review and evaluate the proposals. Each member of the selection committee shall have the relevant experience necessary to evaluate the proposals. Each member of a selection committee shall be responsible for independently evaluating and scoring the proposals.

(b) Once the responses are received and the identity of the vendors is ascertained and communicated to the members of the selection committee, each member of the selection committee, prior to the evaluation of any proposal, shall execute a certification that he or she has no personal interest, financial or familial, in any of the vendors to be evaluated, or the principals, subsidiaries or parent companies thereof. Furthermore, should any of the selection committee mem-

bers indicate that a conflict or personal interest exists once the identity of the vendors is revealed, that member shall not serve on the selection committee and may be replaced.

(c) The names of the members of the selection committee shall be made public once the contract is awarded, pursuant to *N.J.S.A. 52:34-10.3(c)*.

#### § 19:38D-4.4 Selection evaluation criteria

(a) The selection evaluation criteria may include the criteria listed in *N.J.A.C. 19:38D-2.4*, as well as past project performance, understanding of project needs and project schedule, and budget and cost estimating. Selection evaluation criteria may also include any other criteria determined to be appropriate in the sole discretion of the Authority.

(b) The selection evaluation criteria and the specific weight assigned to each criterion for each procurement of goods and/or services under this chapter shall be established by the Authority prior to advertisement, and the criteria and weights shall be incorporated into the RFQ and/or RFP for the procurement.

(c) The Authority may consider the fee proposal as a qualitative factor upon which firms will be evaluated.

#### § 19:38D-4.5 Selection evaluation process

(a) The members of the selection committee will evaluate the submissions and other information comprising the evaluation process, and shall assign scores based upon the evaluation criteria set forth in the RFQ and/or RFP.

(b) In addition to the review of responses to an RFQ and/or RFP, the evaluation process may include:

1. Review of a vendor's responses to requests for additional or clarifying information;
2. Participation in interviews; and
3. Any other components determined, in the sole discretion of the Authority, to be appropriate.

(c) Site visits, pre-proposal conferences, and interviews may be scheduled. Attendance shall be mandatory when so stipulated in the RFP or RFQ.

(d) The selection coordinator shall compile the evaluation scores of the committee members, as well as any points assigned in the consideration of a fee proposal in accordance with *N.J.A.C. 19:38D-4.7(a)*, if applicable, and shall prepare a ranking in accordance with the procedures specified in the RFQ and/or RFP, which shall be deemed a final ranking if no shortlisting process, as set forth in this section, is called for in the RFQ.

(e) If a shortlisting process is specified by the selection procedures described in the RFQ, the selection coordinator shall review the ranking and shall identify the short list of vendors.

1. Once the short list is determined in accordance with subsection (e) above, the Authority shall publish the short list on the Authority's website and/or provide written notification to all firms that supplied responses to the RFQ of the names of the firms selected for the short list.

2. If additional information is required, the Authority shall request such information from all of the shortlisted firms prior to the final ranking. The members of the selection committee shall review and evaluate the additional information provided by the shortlisted firms, in accordance with the procedures specified in the RFQ and/or RFP, and shall assign scores based upon the evaluation criteria stated in the RFQ and/or RFP. At the sole discretion of the Authority, interviews may be held with the shortlisted firms prior to the determination of the final ranking. The members of the selection committee shall evaluate the additional information, and interviews, if any, and shall assign scores to each. The selection coordinator shall combine all evaluation scores in accordance with the procedures outlined in the RFQ and/or RFP, and prepare a final ranking.

#### § 19:38D-4.6 Submission of fee proposals

A fee proposal shall be submitted in accordance with the process set forth in either an RFQ or RFP. A fee proposal shall be submitted in a separate sealed envelope. The envelope shall indicate clearly that it is the fee proposal and shall identify the vendor's name, the project or procurement number and any other information required by the RFQ and/or RFP. The fee proposals shall remain sealed until such time as provided in *N.J.A.C. 19:38D-4.7(a)* or (b) below.

#### § 19:38D-4.7 Consideration of fee proposals

(a) In the event the fee proposal is one of the qualitative factors for the evaluation of the proposals, the Authority shall open the sealed fee proposals and assign the maximum points to the lowest total fee proposal. All other proposals shall be scored based upon the percentage that each proposal exceeds the lowest proposal. The scores of the fee proposals shall then be utilized to finalize the ranking undertaken by the selection committee, pursuant to *N.J.A.C. 19:38D-4.5(d)*.

(b) In the event the fee proposal is not a qualitative factor for the evaluation of the proposal, the Authority shall open the sealed fee proposals at a predetermined date and time after the final ranking has been prepared. Using the fee proposals as a guide, the Authority shall negotiate an agreement with the highest-ranked vendor at a fee determined by the Authority to be fair and reasonable. Should the Authority be unable to negotiate a satisfactory fee with the highest-ranked vendor, the Authority shall terminate negotiations with the highest-ranked vendor, and may then terminate the procurement or may undertake negotiations with the second-highest ranked vendor. Failing accord with the second highest-ranked vendor, the Authority shall terminate negotiations with the second highest-ranked vendor and may then terminate the procurement or may undertake negotiations with the third highest-ranked vendor. In the event that the Authority is unable to agree to a satisfactory fee with any of the three highest-ranked firms, the Authority may select additional vendors in the order of their ranking and continue negotiations, until either an agreement is reached or the procurement is canceled or terminated.

#### § 19:38D-4.8 Recommendation

Based on the process set forth in this subchapter, the selection coordinator shall recommend the most technically qualified vendor at final compensation determined to be fair and reasonable. If the recommendation is approved, the Authority will issue a written notice of award to the successful vendor.

#### § 19:38D-4.9 Execution of agreement

Upon the successful vendor's submission of any required documentation or materials as specified in the notice of award, and the Authority's acceptance of such documents, the Authority will execute the agreement and provide the successful vendor with a fully-executed agreement.

#### § 19:38D-4.10 Confidentiality

The selection evaluations, rankings, negotiations and fee proposals of all firms, as well as all discussions and correspondence, relating to the selection of a vendor shall remain confidential and exempt from production under the Open Public Records Act, *N.J.S.A. 47:1-1* et seq., until a notice of award has issued.

#### § 19:38D-5.1 Scope

This subchapter provides for the use of term agreements by the Authority to serve a variety of needs in accordance with its statutory responsibilities to administer the school construction program. This subchapter further provides for issuance of purchase orders, or issuance of task orders in accordance with a term agreement.

### § 19:38D-5.2 General requirements

(a) A term agreement is an agreement whereby the Authority may engage a vendor for a defined period of time, rather than for a defined project or projects.

(b) Term agreements may be used by the Authority to procure goods and/or services when there is a need to:

1. Expedite emergent projects or emergent project requirements;
2. Procure goods or services for a school facilities project on an "on call" basis; or
3. Address the program-wide requirements of the Authority.

(c) Procurement of a term agreement shall be in accordance with the selection procedures pursuant to N.J.A.C. 19:38D-3 or 4, depending on whether the value of the term agreement exceeds the statutory threshold of N.J.S.A. 52:34-7b, except that fee proposals submitted under those procedures may be based upon hourly or daily rates and/or other methods of determining costs over a specific time period.

(d) Term agreements shall be for a specific time period, or maximum contract value, or both, which limitations shall be set forth in the term agreement. The Authority shall set forth a budget and schedule for each proposed purchase order or task order under a term agreement, prior to its issuance or assignment to a vendor. The time in which goods are to be supplied or services are to be performed under a purchase order or task order may extend past the expiration date of a term agreement, as long as the purchase order or task order was issued or executed prior to the expiration date.

(e) Under this subchapter, the Authority may enter into a term agreement with any vendor engaged pursuant to the provisions of this chapter for:

1. A value that shall not exceed a ceiling stated in the agreement; or
2. An initial term not to exceed three years, with an option to renew for one additional year, unless a longer time period is expressly authorized by law; or
3. A combination of both a stated value and a stated time period.

### § 19:38D-6.1 Scope

This subchapter shall apply when the Authority determines to procure goods and/or services by means of an exemption from advertising pursuant to *N.J.S.A. 52:34-10*, having found that the requirements of one of the exemption types in *N.J.A.C. 19:38D-6.2* have been satisfied, and when the Authority has established that such exemption is in the best interest of the Authority and the school construction program.

### § 19:38D-6.2 Exemption types and requirements

(a) The circumstances providing a basis for an exemption are as follows:

1. Sole source: when only one vendor is capable of or available to provide the goods or services at the time they are required.

2. Continuity: when, as a result of the vendor's previous satisfactory engagement by the Authority, a significant need arises to maintain continuity through updated or additional goods or services from the same source.

3. Governmental agreement: when the goods or services required are available from the Federal or any state government or any agency or political subdivision thereof.

4. Public exigency: when public exigency requires the immediate delivery of the goods or services. Public exigency may be found if:

i. A health or safety hazard exists, which precludes the lead time for advertisement of a procurement for goods and/or services to rectify such condition, or renders the competitive bidding for such a procurement impractical or impossible;



- ii. A critical agency mandate, statutory or operational requirement can only be fulfilled by the sole source; or
- iii. A health or safety emergency precludes the lead time required to develop a competitive schedule of goods or scope of services.

5. Existing contract: when the goods or services required are available through participation in an existing contract between a vendor and any department, division, office, agency, bureau or section of the United States, or any authority or instrumentality created or chartered thereby and any department, division, office, agency, bureau or section of New Jersey or any state of the United States other than New Jersey, or any political subdivision thereof including, but not limited to, municipalities, or any other authority or instrumentality created or chartered thereby, provided that:

- i. The existing contract was the result of a competitive selection process;
- ii. The terms of the existing contract permit such Authority participation;
- iii. The price of the goods or services being procured is no greater than the price offered to the original governmental unit party to the existing contract;
- iv. The Authority receives the benefit of any price reductions mandated by the original governmental unit party during the term of the existing contract and is protected from price increases during that time; and
- v. The price of goods or services being procured is no greater than the price of the same or equivalent goods or services under any existing New Jersey State contract.

#### § 19:38D-7.1 Scope and purpose

(a) This subchapter sets forth the procedures that govern protests regarding the Authority's procurements of goods and services, including protests challenging:

1. The form of advertisements for procurement;
2. The form of the RFQ or the RFP for a given procurement;
3. The scoring of proposals or the ranking of firms;
4. The selection of vendors for unadvertised procurements under N.J.A.C. 19:38D-3 or 6; and
5. The issuance of a task order under a term agreement under N.J.A.C. 19:38D-5.4.

(b) For purposes of this subchapter, protests of the type described are not contested cases subject to the requirements of the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.*

#### § 19:38D-7.2 Subject matter, hearing procedures, time limitations

(a) A protest shall be made as follows:

1. RFQ process or documents. A vendor that has submitted or intends to submit a proposal in response to an RFQ may request an informal hearing before the Authority to protest the RFQ process or documents, by submitting a written protest to the Authority, at least five business days prior to the date and time scheduled for receipt of proposals, setting forth in detail the grounds for such protest. The protest must contain all legal and factual arguments, materials or other documents that support the protestor's position, and must indicate whether the protestor requests an informal hearing. The Authority may deny any protest that is filed less than five business days prior to the date and time scheduled for receipt of proposals, or that fails to provide the specific reasons for, and arguments supporting, the protest;

2. RFP process or documents. A vendor that has submitted or intends to submit proposals in response to an RFP may request an informal hearing before the Authority to protest the RFP process or documents, by submitting a written protest to the Authority, setting forth in detail the grounds for such protest, at least five business days prior to the date and time scheduled for receipt of the proposals. The protest must contain all factual and legal arguments, materials or other documents that support the protestor's position, and must indicate whether the protestor requests an informal

hearing. The Authority may deny any protest that is filed less than five business days prior to the date and time scheduled for receipt of proposals, or that fails to provide the specific reasons for, and arguments supporting, the protest;

3. Short list. A vendor protesting its failure to be included in a short list, or protesting the inclusion of another vendor on a short list, may request an informal hearing before the Authority to protest the selection of the short list by submitting to the Authority, a written protest setting forth the specific grounds for challenging the short list, within five business days of the public announcement of the short list. The protest must contain all factual and legal arguments, materials or other documents that support the protestor's position, and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the short list, or any protest that fails to provide the specific reasons for, and arguments supporting, the protest;

4. Award of contract. A vendor that has submitted a proposal in response to an RFQ or RFP, may request an informal hearing before the Authority to protest the award of a contract to another vendor, by submitting to the Authority a written protest, setting forth the specific grounds for challenging such award, within five business days of the public announcement of the award. The protest must contain all factual and legal arguments, materials or other documents that support the protestor's position, and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the award, or any protest that fails to provide the specific reasons for, and arguments supporting, the protest;

5. Unadvertised contracts. A vendor may request an informal hearing before the Authority to protest the award of an unadvertised contract to another vendor, by submitting to the Authority, a written protest setting forth the specific grounds for such protest, within five business days of the public announcement of the award of the contract. The protest must contain all factual and legal arguments, materials or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the award, or any protest that fails to provide the specific reasons for, and arguments supporting, the protest; or

6. Task order assignment. A vendor that has received an award under a term agreement procurement may request an informal hearing before the Authority to protest the award or assignment of a task order to another vendor, by submitting to the Authority, a written protest setting forth the specific grounds for such protest, within five business days of the public announcement of the award or assignment of the task order. The protest must contain all factual and legal arguments, materials or other documents that support the protestor's position and a statement as to whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than five business days after the public announcement of the award or assignment of the task order, or any protest that fails to provide the specific reasons for, and arguments supporting, the protest.

#### § 19:38D-7.3 Hearing procedures

(a) Hearing procedures shall be as follows:

1. The Authority, in its sole discretion, shall determine whether to grant an informal hearing regarding any protest. Informal hearings are for fact-finding purposes for the benefit of the Authority. Alternatively, the Authority may determine that sufficient information already exists in the record so that a decision may be made without a hearing, and the Authority may issue a final agency decision accordingly. In the event that the Authority determines that a hearing is not necessary, a written final agency decision will be issued by the Authority within five business days of receipt of all documents related to the protest.

2. Informal hearings will be held, where feasible, within 14 business days of the receipt of the request. Hearings will be heard, where practicable, by a hearing officer designated by the Chief Executive Officer. The hearing officer shall issue a final agency decision within 30 calendar days of the conclusion of the hearing unless, due to the circumstances of the hearing, a greater time is required. For all protests of the RFQ or RFP processes and documents, the written final agency decision will issue prior to the opening of proposals. If a decision based upon a protest results in a modification of the aforesaid process or documents, the modifications relating to such decision shall be conveyed by addendum to all vendors eligible for the procurement at issue.

3. In an informal hearing, the Authority may, in instances where public exigency exists or where there is potential for substantial savings to the State, modify or amend the time frames or any other requirements provided in this sub-

chapter. In these instances, the Authority shall document, for the record, the rationale for such amendment and give adequate notice to the parties involved.

4. For matters of dispute that may occur relative to the activities of the Authority, if formal hearings are warranted, such hearings will be held by the Chief Executive Officer or his or her designee, or by an Administrative Law Judge pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq. and *52:14F-1* et seq., as applicable.

5. The Board of the Authority, or the Chief Executive Officer, as its designee, shall determine whether a matter constitutes a contested case and shall retain or refer any such matter for hearing pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq. and *52:14F-1* et seq. Upon filing of the initial pleading in a contested case, the Board of the Authority may, by resolution, either retain the matter for hearing directly, or transmit the matter for hearing before the Office of Administrative Law. Such hearings shall be governed by the provisions of 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*.

***Resolution—6c.***

Extension of Existing Regulations: Notice of Re-adoption (without Amendments) Procurement of Goods and Services N.J.A.C. 19:38D

**Resolution**

**WHEREAS**, P.L. 2007, 137 (N.J.S.A. 52:18A-238(k)) requires that the Members of the New Jersey Schools Development Authority (SDA or the Authority) adopt, amend and repeal rules and regulations to carry out the provisions of P.L. 2000, c. 72 (C. 18A:7G-1 et seq.) and P.L. 2007, c. 137 (C. 52:18A-235 et seq.); and

**WHEREAS**, On March 2, 2012, the Members of the Authority approved for final adoption regulations governing the Procurement of Goods and Services, N.J.A.C. 19:38D (the Rules); and

**WHEREAS**, the Rules were formally published in the New Jersey Register on April 4, 2012 and are due to expire on April 4, 2019; and

**WHEREAS**, the Rules address requirements for prequalification, advertisement, evaluation and selection in procurements for professional services consultants; procedures regarding cancellation of procurements; inclusion of required contract terms for termination, records retention, disclosure and publicity; and provisions for performance evaluations of engaged consultants; and

**WHEREAS**, The Rules address general provisions and requirements for procurements of goods and services including: the purpose and scope of the rules; the definition of terms used in the rules; requirements for prequalification, advertisement, evaluation and selection in procurements for goods and services; procedures regarding cancellation of procurements; and inclusion of required contract terms for termination, records retention, disclosure and publicity; and

**WHEREAS**, the Rules also address selection procedures for the procurement of goods and services contracts that exceed the state bidding threshold pursuant to N.J.S.A. 52:34-7b as amended, as well as procedures for procurements that do not exceed the state threshold; procedures for procurements subject to a waiver of advertising; procedures for the procurement of term contracts; and provisions for protests and hearing procedures for objections relating to procurements of goods and services; and

**WHEREAS**, State agencies and authorities may utilize a Notice of Re-adoption process to seek additional time to review or modify existing rules, or to ensure that underlying rules do not expire while the agency pursues substantive amendments through the normal proposal, publication, public comment and adoption process; and

**WHEREAS**, while the Notice of Re-adoption process effectuates the re-adoption of rules and, therefore, automatically extends the rules for the normal seven-year rule duration, it is the intention of management to act expeditiously to develop any amendments needed to correct or improve the Rules, and to submit any proposed amendments to external entities for review and validation, before seeking approval from the Board for a proposed re-adoption with amendments to the Rules; and

**WHEREAS**, pending expiration of the Rules on April 4, 2019, a Notice of Re-adoption was sent to the OAL to meet the statutory 30-day filing requirement, but processing of the re-adoption and extension is suspended pending the Board's ratification of the Notice; and

**WHEREAS**, management is seeking the Members' ratification of its filing of a Notice of Re-adoption to extend the expiration of the Rules, an expedited process that permits regulations to be readopted without amendments and without prior publication or public comment, pursuant to a filing of the Notice of Re-adoption with the Office of Administrative Law (OAL), at least thirty days prior to the expiration of the regulations; and

**WHEREAS**, the proposed Notice of Re-adoption process will involve no amendments or modifications to the Rules and, upon re-adoption, the Rules will remain in their current form; and

**WHEREAS**, a complete copy of the Rules was provided to the Members of the Authority for review; and

**WHEREAS**, SDA management recommends that the Members ratify the Authority's use of the Notice of Re-adoption process to effectuate the re-adoption and extension of the Rules consistent with the memorandum presented to the Board on this date and incorporated herein.

**NOW, THEREFORE, BE IT RESOLVED**, that the Members of the Authority hereby ratify SDA management's use of the Notice of Re-adoption process to effectuate the re-adoption and extension of the Rules, through the filing of a Notice of Re-adoption with the Office of Administrative Law, which, upon ratification, will be processed for publication in the New Jersey Register;

**BE IT FURTHER RESOLVED**, that this re-adoption and extension will permit further review of the existing rules, consideration of any needed amendments, and an opportunity to secure required external reviews of any proposed modifications before proceeding with a full proposal and adoption of any such amendments.

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Extension of Existing Regulations, Notice of Re-adoption (without Amendments), N.J.A.C. 19:38D, Procurement of Goods and Services, dated April 3, 2019

Dated: April 3, 2019

**MONTHLY REPORTS**  
**(For Informational Purposes)**

**ACTIVE PROJECTS STATUS REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director

DATE: April 3, 2019

SUBJECT: Active Project Status Report  
(For Informational Purposes Only)

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The 1<sup>st</sup> section of the report includes an Activities Summary of projects identified for advancement in the Authority's Capital Plans.

The 2<sup>nd</sup> part of the report displays project completion milestones for all other active major capital projects and emergent projects for which a contract for construction has been awarded.





2011 & 2012 Portfolio Projects Activities Summary

as of 3/20/19

2011 Portfolio Projects - sorted by District

1

District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Bridgeton	Buckshutem ES	K-8	581	645	\$23.3	Kit of Parts/ Design-Build	School occupied Sep. 2016. (Bock)	5/31/13
Bridgeton	Quarter Mile Lane ES	PK-8	731	795	\$39.0	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Bock)	5/31/13
Elizabeth	Frank J. Cicarell Academy (Academic HS)	9-12	1,091	1,284	\$64.1	Existing Design	School occupied Sep. 2016. (Patock)	12/8/11 7/11/12
Jersey City	Patricia M. Noonan ES (ES 3)	PK-5	778	848	\$54.0	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Dobco, Inc.)	6/25/12 2/25/13
Jersey City	Dr. Maya Angelou PS #20	K-5	628	698	\$49.3	Existing Design	School occupied Sep. 2016. (Dobco, Inc.)	4/17/12 3/6/13
Long Branch	Catrambone ES	PK-5	794	867	\$40.0	Existing Design	School occupied Sep. 2014. (Terminal Construction)	12/20/11
New Brunswick	Redshaw ES	PK-5	906	990	\$51.2	Kit of Parts/ Design-Build	School occupied Jan. 2015. (Hall Construction)	5/29/12
Newark	Oliver St. ES	PK-8	848	932	\$73.6	Kit of Parts/ Design-Build	School occupied May 2016. (Epic Management)	6/27/12 11/29/12
Paterson	Dr. Hani Awadallah ES (Marshall St. ES)	K-8	650	722	\$55.2	Existing Design	School occupied Sep. 2016. (Dobco, Inc.)	6/13/12 2/12/13
Paterson	PS 16	PK-8	641	705	\$62.4	Kit of Parts/ Design-Build	School occupied Sep. 2016. (Hall Construction)	3/27/12 8/28/13
West New York	Harry L. Bain PS 6	PK-6	736	814	\$16.8	Design-Bid-Build	School occupied Sep. 2017. (Paul Otto)	2/27/12 12/29/15

\*PLEASE NOTE - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
 NOTE # 1 - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions.  
 Recommendations of DOE/SDA/District Working Groups may impact this information in the future.



2011 & 2012 Portfolio Projects Activities Summary

as of 3/20/19

2012 Portfolio Projects - sorted by District

1

District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Gloucester City	Elementary/Middle School	4-8	687	763	\$65.3	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Terminal)	3/4/14
Keansburg	Caruso ES	K-4	758	842	\$50.9	Kit of Parts/ Design-Build	School occupied Sep. 2016. (Hall Construction)	10/20/11 6/27/13
Keansburg	Port Monmouth Road School	PK	318	318	\$25.8	Design-Bid-Build	Revised Planning Charter approved Aug. 2017 Board.	2 QTR 19
New Brunswick	Robeson ES	PK-5	823	893	\$48.5	Kit of Parts/ Design-Build	School occupied Sep. 2018 (Hall Construction)	4/22/15
Newark	Elliot Street ES	PK-8	848	932	\$46.7	Kit of Parts/ Design-Build	School occupied Jan. 2016. (Hall Construction)	12/27/12
Newark	South Street ES	PK-8	597	657	\$69.9	Kit of Parts/ Design-Build	School occupied Sep. 2018. (Bock)	6/28/13 6/29/15
Passaic	Dayton Ave. Campus	PK-8	2,760	3,020	\$240.9	Kit of Parts/ Design-Build	Award for D-B approved Nov. 2017 Board. (Terminal)	6/13/17
Phillipsburg	High School	9-12	1,846	2,172	\$127.5	Existing Design	School occupied Sep. 2016. (Epic Management)	9/27/12
West New York	Memorial HS	9-12	1,859	2,194	\$16.0	Alternative Delivery (acquisition) & Renovation	Acquisition of Existing St. Joseph's HS complete. Renovation work delegated to District via Grant.	n/a

**\*PLEASE NOTE** - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
**NOTE # 1** - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions. Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

7



2011 & 2012 Portfolio Projects Activities Summary

as of 3/20/19

2012 Portfolio Projects (Educational Priority that require further conversations with District & 2013 Amended Projects) - sorted by District

1								
District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
East Orange	George Washington Carver ES	PK-5	470	512	\$41.2	Kit of Parts/ Design-Build	Award for D-B approved Jun. 2017 Board. (Dobco)	4/26/16 1/20/17
Elizabeth	New ES @ Halloran PS #22 ES Site	2-8	860	956	\$55.3	Kit of Parts/ Design-Build	School occupied Sep. 2017. (Torcon)	6/9/14
Garfield	James Madison ES	K-5	275	305	\$29.7	Existing Design	School occupied Sep. 2018. (Brockwell & Carrington)	2/19/14 6/30/15
Harrison	New ES	PK - 1	392	432	\$36.1	Kit of Parts/ Design-Build	Award for D-B approved Nov. 2016 Board. (Brockwell and Carrington)	11/10/15 7/13/16
Irvington	Madison Avenue ES	PK-5	463	504	\$38.6	Kit of Parts/ Design-Build	Award for D-B approved Dec. 2016 Board. (Bock)	11/19/15 8/16/16
Millville	Senior HS Addition/Renovation	HS	2,026	2,384	\$137.5	Design-Build	Award for D-B approved Apr. 2017 Board. (Hall Construction)	9/30/16
Passaic	New ES @ Leonard Place	K-5	628	698	\$55.9	Kit of Parts/ Design-Build	Award for D-B approved Dec. 2015 Board. (Dobco, Inc.)	8/13/15
Paterson	New MS @ Union Ave.	6-8	996	1107	\$113.9	Design-Build	Award for D-B approved Sep. 2018 Board. (Epic Management)	3/2/17 4/26/18
Pemberton	Denbo-Crichton ES	PK-5	846	930	\$58.7	Design-Build	Award for D-B approved Jan. 2018 Board. (Bock)	3/1/17 9/13/17
Perth Amboy	High School	HS	2,800	3,304	\$234.4	Design-Build	Preliminary Charter approved Jun. 2016 Board.	1 QTR 19
Perth Amboy	Seaman Avenue ES	K-5	724	804	\$56.4	Kit of Parts/ Design-Build	Award for D-B approved Jul. 2016 Board. (Epic Management).	2/3/16
Plainfield	New Woodland ES	K-5	756	839	\$62.0	Kit of Parts/ Design-Build	ESP ROA approved Aug. 2018 Board.	5/23/18 2 QTR 19
Union City	New Grade 7 to 9 School	7-9	756	840	\$64.2	Kit of Parts/ Design-Build	Preliminary Charter approved Mar. 2017 Board.	TBD
Vineland	Lincoln Ave. MS (New MS)	6-8	562	624	\$49.8	Kit of Parts/ Design-Build	School occupied Sep. 2018. (Bock).	9/24/15

\*PLEASE NOTE - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
 NOTE # 1 - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions.  
 Recommendations of DOE/SDA/District Working Groups may impact this information in the future.



**2011 & 2012 Portfolio Projects Activities Summary**

as of 3/20/19

**2012 Portfolio Projects (Facilities Deficiencies) - sorted by District**

1								
District	Project	Grade Alignment	FES Capacity	Max. Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Camden	High School	9-12	1,244	1,468	\$132.6	Design-Build	Award for D-B approved Aug. 2018 Board. (Bock)	6/9/17 3/23/18
Hoboken	Demarest ES	ES	TBD	TBD	TBD	Design-Bid-Build	Substitution of Demarest ES approved Jul. 2017 Board. Procurement for Pre-Design Services Underway.	TBD
Orange	Cleveland St. ES	PK-6	316	348	\$33.2	Design-Bid-Build	Award for GC approved Mar. 2019 Board. (Brockwell & Carrington)	9/10/18 11/14/18
Orange	High School	9-12	1,440	1,694	\$51.9	Design-Bid-Build	Award for GC approved Mar. 2019 Board. (Terminal)	10/12/18
Trenton	Central HS	10-12	1,850	2,176	\$155.4	Design-Build	Award for D-B approved Mar. 2016 Board. (Terminal)	12/19/14 9/29/15

**\*PLEASE NOTE** - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.  
**NOTE # 1** - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions.  
 Recommendations of DOE/SDA/District Working Groups may impact this information in the future.



## Active Project Status Report Status as of 3/1/2019

### Major Capital Projects - With Contract for Building Construction Awarded

#	District	Project Name	Project Scope	Project Status	Substantial Completion	Status Substantial Completion	School Opening	Status of School Opening	Total Estimated Project Cost
1	Camden	New Camden High School	New Construction	Design-Build Design Phase	3Q 2021	On-target	Sep-21	On-target	\$ 132,569,255
2	East Orange	New GW Carver ES	New Construction	Construction	4Q 2019	On-target	Sep-20	On-target	\$ 41,179,670
3	Harrison	New Elementary School	New Construction	Construction	1Q 2020	On-target	Sep-20	On-target	\$ 36,115,640
4	Irvington	New Madison Ave ES	New Construction	Construction	2Q 2019	On-target	Sep-19	On-target	\$ 38,589,795
5	Millville	Millville Senior High School	Addition/Renovation	Construction	3Q 2022	On-target	Phased	On-target	\$ 137,503,832
6	Passaic City	New ES at Leonard Place	New Construction	Construction	1Q 2019	On-target	Sep-19	On-target	\$ 55,884,039
7	Passaic City	New Dayton Avenue Educational Campus	New Construction	Construction	2Q 2022	On-target	Sep-22	On-target	\$ 240,923,270
8	Paterson	New Union Ave MS	New Construction	Design-Build Design Phase	2Q 2021	On-target	Sep-21	On-target	\$ 113,902,274
9	Perth Amboy	New Seaman Ave ES	New Construction	Construction	2Q 2019	On-target	Sep-19	On-target	\$ 56,435,971
10	Pemberton	New Denbo ES	New Construction	Construction	1Q 2021	On-target	Sep-20	On-target	\$ 58,703,414
11	Trenton	New Central HS	New Construction	Construction	2Q 2019	On-target	Sep-19	On-target	\$ 155,404,000



**Active Project Status Report  
Status as of 3/1/2019**

**Emergent Projects - With Contract for Construction Awarded**

#	District	Project Name	Project Scope	Project Phase	Substantial Completion	Status Substantial Completion	Final Completion	Status of Final Completion	Total Estimated Project Cost
1	Newark	Marin School	HVAC Repairs	GC TO w/ Design	2Q 2019	On-Target	1Q 2019	On-Target	\$ 204,000
2	Newark	Hawkins School	Chimney Repairs	GC TO w/ Design	2Q 2019	On-Target	3Q 2019	On-Target	\$ 637,888
3	Newark	Wilson School Annex	Chimney Repairs	GC TO w/ Design	2Q 2019	On-Target	3Q 2019	On-Target	\$ 211,386
4	Paterson	New Roberto Clemente	HVAC & Corrective Work	GC TO w/ Design	1Q 2019	On-Target	2Q 2019	On-Target	\$ 2,528,884
5	Plainfield	Plainfield High School	Structural Repairs - Stairs	GC TO w/ Design	3Q 2019	On-Target	4Q 2019	On-Target	\$ 1,202,774

**PROJECT CLOSEOUT STATUS REPORT**



STATE OF NEW JERSEY

# SCHOOLS DEVELOPMENT AUTHORITY

32 EAST FRONT STREET  
P.O. BOX 991  
TRENTON, NJ 08625-0991  
609-858-5395

To: Members of the Authority  
From: /s/ Ayisha Cooper, Vendor Services Analyst  
Date: April 3, 2019  
Subject: Project Close-Out Status Report

7

The attached report provides a status of the following:

- All SDA managed Capital Plan projects which have achieved school occupancy but have not yet been contractually and administratively closed
- All SDA managed Emergent projects which are either (1) currently active, or (2) complete yet have not been contractually and administratively closed
- Projects which have achieved project transfer to the district yet have outstanding open contracts
- A running total of all school facilities projects, health and safety contracts, and suspended design contracts which have been closed

Projects closed since the last report will appear highlighted.




**SPECIAL PROJECTS DIVISION**  
**PROJECT STATUS REPORT - As of March 1, 2019**

Year of Occupancy	DOE #	School	Disposition	Project Transfer Date	Outstanding Issues Preventing Complete Close-out
<b>Bridgeton</b>					
2016	0540-050-13-0ACN	Buckshutem Road Elementary School			
2017	0540-100-13-0ACO	Quarter Mile Lane Elementary School			
<b>Burlington City</b>					
2007	0600-020-01-0957	New High School	Project Transferred	12/29/11	Open contract(s) - Legal matter pending
<b>Camden</b>					
2007	0680-140-01-0939	Octavius V. Catto Community School - Demonstration Project	Project Transferred	01/09/12	Open contract(s) - Pending audit completion
2009	0680-350-01-0938	HB Wilson Elementary School	Project Transferred	04/14/10	Open contract(s)
2009	0680-190-01-0927	Dudley Elementary School	Project Transferred	02/06/12	Open contract(s)
<b>Cumberland</b>					
2009	0997-030-02-0926	Cumberland Regional High School	Project Transferred	06/25/10	Open contract(s) - Legal matter pending
<b>Egg Harbor City</b>					
2010	1300-X01-04-0ADY	New Middle School	Project Transferred	01/01/12	Open contract(s)
<b>Egg Harbor Township</b>					
2011	1310-005-04-0AEB	Egg Harbor Township High School			
<b>Elizabeth</b>					
Legacy	1320-X06-01-0866	#30 Ronald Reagan Academy	Project Transferred	07/09/12	Open contract(s) - Legal matter pending
2013	1320-240-03-0339	Victor Mravlag Elementary School # 21			
2016	1320-x07-01-0867	Frank J. Cicarell Academy (New Academic HS)			
2017	1320-N20-13-0AEG	Halloran Elementary School	Project Transferred	06/12/18	Open contract(s)
<b>Garfield</b>					
2007	1700-N01-02-0114	Garfield Middle School	Project Transferred	06/25/09	Open contract(s) - Legal matter pending
2018	1700-205-03-0315	James Madison Elementary School #10			
<b>Gloucester City</b>					
Legacy	1770-160-01-0245	Cold Springs Elementary School	Project Transferred	06/05/09	Open contract(s)
2017	1770-N01-03-0188	Gloucester City Middle School	Project Transferred	04/17/18	Open contract(s)
<b>Harrison</b>					
2007	2060-X01-01-0832	New Harrison High School	Project Transferred	10/23/12	Open contract(s)
<b>Jersey City</b>					
Legacy	2390-N01-99-0227	New Elementary School #3 (Frank R. Conwell ES #3)	Project Transferred	12/19/15	Open contract(s) - Legal matter pending
Legacy	2390-N02-99-0228	Jersey City Middle School # 4 (Frank R. Conwell MS #4)	Project Transferred	12/19/15	Open contract(s) - Legal matter pending
2016	2390-190-01-0581	New Public School #20	Project Transferred	08/11/17	Open contract(s) - Legal matter pending
2017	2390-X03-01-0587	Patricia M. Noonan ES (New PS #3)	Project Transferred	12/14/17	Open contract(s) - Legal matter pending
2007	2390-N03-99-0147	Heights Middle School #7			
<b>Keansburg</b>					
2016	2400-E01-02-0116	New Caruso Elementary School	Project Transferred	08/13/18	Open contract(s)

<b>SPECIAL PROJECTS DIVISION</b>					
<b>PROJECT STATUS REPORT - As of March 1, 2019</b>					
<b>Year of Occupancy</b>	<b>DOE #</b>	<b>School</b>	<b>Disposition</b>	<b>Project Transfer Date</b>	<b>Outstanding Issues Preventing Complete Close-out</b>
<b>Long Branch</b>					
2008	2770-X03-01-0635	Long Branch High School & Athletic Fields	Project Transferred	12/07/12	Open contract(s) - Legal matter pending
<b>New Brunswick</b>					
2018	3530-123-03-1034	Paul Robeson Community Elementary School	Project Transferred	10/23/18	Open contract(s)
<b>Newark</b>					
Legacy	3570-X01-01-0617	Science Park	Project Transferred	05/03/13	Open contract(s) - Legal matter pending
2008	3570-X03-01-0665	Central High School	Project Transferred	03/28/12	Open contract(s) - Legal matter pending
2010	3570-X07-01-0693	Speedway Elementary School	Project Transferred	10/21/15	Open contract(s)
2016	3570-590-02-0315	Oliver Street Elementary School	Project Transferred	05/18/17	Open contract(s)
2018	3570-640-02-0311	South Street ES			
<b>Passaic</b>					
2015	3970-X01-01-X760	New Henry Street Elementary School			
<b>Paterson</b>					
Legacy	4010-N02-02-0393	Roberto Clemente Elementary School	Project Transferred	04/12/13	Needed repairs being addressed
2016	4010-N09-04-00HP	New Public School #16	Project Transferred	07/31/17	Open Contract(s)
2016	4010-N01-02-0169	Dr. Hami Awadallah School (New Marshall Street ES)	Project Transferred	03/15/18	Open Contract(s)
2008	4010 -S01-02-0101	International High School			
2008	4010-270-02-0608	#24 Elementary School			
<b>Pemberton</b>					
2011	4050-E01-02-0082	Pemberton Early Childhood Education Center	Project Transferred	02/01/13	Open contract(s)
<b>Phillipsburg</b>					
2016	4100-X01-99-0464	New High School	Project Transferred	06/07/18	Open contract(s)
<b>Union City</b>					
2012	5240-N03-02-0397	Columbus Elementary School	Project Transferred	02/24/15	Open contract(s) - Legal matter pending
<b>Vineland</b>					
2018	5390-N02-02-0245	Lincoln Avenue Middle School			
<b>West New York</b>					
2009	5670-065-01-0559	Elementary School #2	Project Transferred	05/14/13	Open contract(s) - Legal matter pending
2012	5670-070-01-0556	West New York #3	Project Transferred	01/29/14	Open contract(s) - Legal matter pending
2017	5670-100-12-0AEE	Harry L. Bain E.S.			
<b>Capital and Demonstration Projects Totals</b>					
<b>Total Capital and Demonstration</b>			<b>151</b>		
<b>Closed Capital and Demonstration Projects</b>			<b>107</b>		
<b>Capital and Demonstration Projects Not Closed</b>			<b>44</b>		
<b>Capital and Demonstration Projects Not Closed, Project Transferred</b>			<b>30</b>		
			<b>Legal Matter</b>	<b>14</b>	
			<b>Pending Audit</b>	<b>1</b>	
			<b>Miscellaneous</b>	<b>15</b>	

<b>SPECIAL PROJECTS DIVISION</b>					
<b>PROJECT STATUS REPORT - As of March 1, 2019</b>					
<b>Year of Occupancy</b>	<b>DOE #</b>	<b>School</b>	<b>Disposition</b>	<b>Project Transfer Date</b>	<b>Outstanding Issues Preventing Complete Close-out</b>
<b>Emergent Projects</b>					
<b>Camden</b>					
	0680-170-12-0ACF	Cramer Elementary School			
<b>Irvington</b>					
	2330-090-12-0ACT	Chancellor Avenue Elementary School	Project Transferred	3/20/2018	Open contract(s)
<b>Paterson</b>					
	4010-N02-12-0ABX	Roberto Clemente ES			
<b>Salem</b>					
	4630-090-17-0AEQ	Salem Middle School	Project Transferred	10/18/18	Open contract(s)
<b>Trenton</b>					
	5210-080-12-0ABZ	Hedgepeth-Williams School	Project Transferred	03/01/18	Open contract(s)
<b>Vineland</b>					
	5390-050-12-0ACK	Vineland High School South			
<b>Emergent Project Totals</b>					
<b>Total Emergent Projects</b>			73		
<b>Emergent Projects Closed</b>			67		
<b>Emergent Projects Not Closed</b>			6		
<b>Emergent Projects Not Closed but Transferred</b>			3		
<b>Health and Safety Contract Totals</b>					
<b>Total Contracts</b>			399		
<b># of Contracts Closed</b>			394		
<b># of Open Contracts</b>			5		
<b>Open Design Contracts</b>					
<b>Total Contracts</b>			109		
<b># of Contracts Closed</b>			98		
<b># of Open Contracts</b>			11		

**PROJECT STATUS REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director – Program Operations

DATE: April 3, 2019

SUBJECT: Executive Summary – Monthly Project Status Reports

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**MONTHLY PROJECT STATUS REPORT**

**Projects that have Expended 75% or More of Board Approved Contingency:**

No activity during the reporting period

**Projects Greater than 90 Days Behind Schedule:**

No activity during the reporting period

**Revisions to Project Charters:**

No activity during the reporting period



**Projects that have Expended 75% or More of Board Approved Contingency**  
 Reporting Period: Jan. 1, 2008 to February 28, 2019

District	Project	Board Approved Project Charter Contingency	Contingency Expended/Committed	Contingency Remaining <sup>1</sup>	% of Contingency Expended/Committed	Project Completion %	Cause(s)	Current Status
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**In Construction**

NO DATA TO REPORT

**Substantially Complete & Building Occupied**

Please refer to the Project Close-Out Activity Report for status of close-out activities

Camden	Dudley E.S.	\$3,215,000	\$2,615,168	\$599,832	81.3%	99%	1. Installation of IT/AV systems	Project complete and building occupied. Working towards project close-out.
Newark	Speedway Avenue E.S.	\$1,826,000	\$1,754,119	\$71,881	96.1%	99%	1. Removal of unforeseen impacted materials	Project complete and building occupied. Working towards project close-out.
New Brunswick	Paul Robeson Community ES	\$1,599,650	\$2,180,000	\$0	100.0%	99%	Unforeseen structural repairs. On Oct. 4, 2017 Change Order No. 1 for the value of \$2,180,000 was approved by the Member to address unforeseen structural repairs to the existing Robeson ES which served to fully exhaust the project contingency.	Project complete and building occupied. Working towards project close-out.
Paterson	E.S. #24	\$4,616,120	\$4,313,389	\$302,731	93.4%	99%	1. Unforeseen soil remediation and clean fill.	Project complete and building occupied. Working towards project close-out.
West New York	West New York P.S. #2	\$2,708,883	\$2,708,883	\$0	100.0%	99%	1. Unforeseen site foundation issues	Project complete and building occupied. Working towards project close-out.

<sup>1</sup> Does not include expended contingency or contingency funds allocated for change orders, amendment:



**Projects Greater than 90 Days Behind Schedule or with Occupancy Date in Jeopardy**  
 Reporting Period: February 2019

#	Event Date	District	Project	Board Approved Project Charter SubComp Date	Current Contract SubComp Date	Forecasted Contract SubComp Date	# of Days Behind Schedule	Cause(s)	Current Status
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No Activity During the Reporting Period



**Revisions to Project Charters**  
Reporting Period: February 2019

#	District	Project	Financial & Schedule Impacts	Additional Funds Approved	Additional Funds as % of Total Project Budget	Operating Authority Approval Requirement	Description of Revision
No Activity During the Reporting Period							



**CONTRACTS EXECUTED REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director, Program Operations

DATE: April 3, 2019

SUBJECT: Contracts Executed Report and Amendments & Change Orders Report  
(For Informational Purposes Only)

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**Contracts Executed Report**

This report contains the activity of Contracts executed during the period February 1 through February 28, 2019.

**Noteworthy Items during the reporting period:**

- Execution of one contract for construction management services:
  - Camden New High School – CBRE Heery, Inc. - \$2,645,285

**Amendments & Change Orders Report**

This report contains the activity of Amendments and Change Orders executed during the period February 1 through February 28, 2019.

**Noteworthy Items during the reporting period:**

- Execution of 5 Professional Services Amendments totaling a credit of \$271k, of the 5 executed amendments none required board approval.
- Execution of 2 Construction Services Change Orders totaling a credit of \$76k, of the 2 executed change orders none required board approval.

**Report of change orders less than \$10,000 yet requiring Board Approval**

In accordance with the Operating Authority adopted by the Members on December 1, 2010 as amended on March 7, 2012, the Members are to be provided a report of any change order which received delegated approval by the CEO due to the fact that they are valued at less than \$10,000 yet require Board approval due the total change orders exceeding 10% of the contract value.

- No Activity to Report



### Contracts Executed Report

Reporting Period: 2/1/2019 through: 2/28/2019

District	School Name(s)	Project Type	Contract Type	Contract Number	Vendor	MWSBE Cert(s)	Contract Award Amount	Contract Execution Date	Per School CCE	Total CCE	
<b>Part 1. Professional Services</b>											
<b>Others</b>											
Camden City	Camden H.S.	New	ConstrMgmt	CA-0022-M01	CBRE Heery, Inc.		\$2,645,285	2/20/2019	-		
<b>Others</b>											
<b>Part 1. Professional Services</b>							<b>\$2,645,285</b>				

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### Contracts Executed Report

Reporting Period: 2/1/2019 through: 2/28/2019

District	School Name(s)	Project Type	Contract Type	Contract Number	Vendor	MWSBE Cert(s)	Contract Award Amount	Contract Execution Date	Per School CCE	Total CCE
<b>Part 4. Other Contracts &amp; Services</b>										
<b>Others</b>										
Garfield	James Madison Elementary School #10	New	FFE	NT-0014-K21	Data Industries, Ltd.		\$58,675	2/1/2019	-	
Irvington	Madison Avenue E.S.	New	FFE	ES-0027-Q06	Krueger International, Inc.		\$196,771	2/21/2019	-	
Irvington	Madison Avenue E.S.	New	FFE	ES-0027-Q07	Krueger International, Inc.		\$116,611	2/28/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K06	Washington Computer Services		\$78,048	2/1/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K08	Washington Computer Services		\$39,040	2/5/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K09	MRA International, Inc.		\$26,156	2/5/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K10	B&H Foto & Electronics Corp.		\$12,258	2/7/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K11	Keyboard Consultants		\$272,345	2/11/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K13	Integra Business Center, Inc. dba IntegraOne		\$13,350	2/14/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K14	DynTek Services, Inc.		\$261,097	2/21/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K15	Apple Computer Inc.		\$51,924	2/21/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-K16	Hewlett Packard Enterprise Company		\$38,512	2/25/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-Q11	Indiana Furniture Industries, Inc.		\$11,878	2/11/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-Q12	Krueger International, Inc.		\$129,562	2/11/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-Q13	Krueger International, Inc.		\$26,576	2/13/2019	-	
Passaic City	New ES at Leonard Place	New	FFE	NT-0050-Q14	Community Products LLC dba Community Playthings		\$33,893	2/21/2019	-	
Trenton	Trenton Central H.S.	New	FFE	WT-0022-K23	Washington Computer Services		\$233,225	2/26/2019	-	
Trenton	Trenton Central H.S.	New	FFE	WT-0022-K24	Washington Computer Services		\$484,870	2/28/2019	-	
Trenton	Trenton Central H.S.	New	FFE	WT-0022-K25	Washington Computer Services		\$260,650	2/28/2019	-	
Trenton	Trenton Central H.S.	New	FFE	WT-0022-Q04	Liat, LLC		\$26,470	2/21/2019	-	
<b>Others</b>										
<b>Part 4. Other Contracts &amp; Services</b>							<b>\$2,371,909</b>			
							<b>Total Contract Award</b>			<b>Total Contracts Awarded</b>
<b>Grand Totals - Professional and Construction Services Combined</b>							<b>\$5,017,194</b>			<b>21</b>

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## Contracts Executed Report

Reporting Period: 2/1/2019 through: 2/28/2019

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**\*\* Contracts less than \$10,000 are not displayed**

### Project Types Legend

HS	Health & Safety
New	New Constuction
Add	Addition
RenoAdd	Addition & Renovation
Reno	Renovation

### Contract Types Legend

Aquisition	Property Acquisition Related Costs
Appraisal	Appraisal, Appraisal Review, NRE
Construction	Construction
Design	Design or Site Investigation
DB	Design-Build
E-Rate	E-Rate
FFE	Furniture, Fixtures, and Equipment
General	General Program Cost
Legal	Legal
Material	Material Supply
ProjectMgmt	Project Management Firm
PreDevelopment	Predevelopment or Demolition
Relocation	Relocation Services
SiteInvstgtn	Site Investigation
Testing	Testing
Title	Title Services
Utilities	Utilities Services

### MWSBE CERTIFICATIONS

M = Minority Business Enterprise  
W = Women Business Enterprise  
S = Small Business Enterprise



**Amendments & Change Orders Report**

Reporting Period: 2/1/2019 through: 2/28/2019

District	School Name(s)	Contract Number	Contract Execution Date	CO #	Vendor Name	CO Execution Date	Contract Award Amount	Prior CO's (cumulative)	Current CO Amount	Board Approval Required	Board Approval Date	Revised Contract Amount	Cumulative CO %
<b>Professional Services</b>													
<b>Design Consultant</b>													
Cumberland Regional	Cumberland Regional H.S.	ST-0022-A01	6/30/2004	8	DLR Group Architects & Engineers Inc.	2/13/2019	\$1,419,377	\$478,550	(\$65,000)			\$1,832,927	29.13%
Cumberland Regional	Cumberland Regional H.S.	ST-0022-A01	6/30/2004	9	DLR Group Architects & Engineers Inc.	2/13/2019	\$1,419,377	\$413,550	(\$13,784)			\$1,819,144	28.16%
Cumberland Regional	Cumberland Regional H.S.	ST-0022-A01	6/30/2004	10	DLR Group Architects & Engineers Inc.	2/13/2019	\$1,419,377	\$399,767	(\$25,000)			\$1,794,144	26.40%
Newark	New Central High School	NE-0004-A01	2/21/2002	27	Johnson Jones Architects Planners, Inc.	2/13/2019	\$2,935,000	\$4,340,255	(\$157,993)			\$7,117,262	142.49%
Trenton	Hedgepeth-Williams M.S.	EP-0073-A01	4/8/2014	3	Design Collaborative, Architects And Planners	2/20/2019	\$181,420	\$54,487	(\$9,081)			\$226,826	25.02%
<b>Design Consultant</b>													
<b>Professional Services</b>													
<b>(\$270,858)</b>													
<b>Construction Services</b>													
<b>Contractor</b>													
Camden City	Cramer E.S.	EP-0080-C01	6/14/2017	4	T.N. Ward Company	2/20/2019	\$1,349,235	\$1,667,271	(\$98,128)			\$2,918,378	116.29%
Passaic City	Dayton Ave. Educational Campus	NT-0052-B01	1/2/2018	3	Terminal Construction Corp.	2/20/2019	\$163,560,000	\$14,833	\$22,544			\$163,597,377	0.02%
<b>Contractor</b>													
<b>Construction Services</b>													
<b>(\$75,584)</b>													
										<b>Total Change Order Summary</b>			
<b>Grand Totals</b>										<b>(\$346,442)</b>		<b>7</b>	

**Column Description Legend**

CO Execution Date	Date the Change Order was entered into the SIMS system
Revised Contract Amount	Current value of the contract (excluding additional assignments) including current change order

7

**CONTRACT TERMINATIONS REPORT** *(no activity)*

**SETTLEMENT CLAIMS** *(no activity)*



**CONTRACTOR AND WORKFORCE COMPLIANCE REPORT**



### MEMORANDUM

TO: Members of the Authority

FROM: Aaron Goss /s/ Aaron Goss  
Director, Business & Workforce Diversity  
Office of the Chief of Staff

DATE: April 3, 2019

SUBJECT: Contractor and Workforce Compliance Monthly Update for January 2019

The Business & Diversity Management staff continues to participate at mandatory pre-bid and pre-construction meetings to instruct and inform bidders regarding SDA's SBE goals, policies and procedures, including:

- Small Business Enterprise subcontracting goal of 25% of all contracts
- County workforce goals for minorities and females
- Detailed process procedures to monitor and track the progress made toward these goals throughout the life cycle of each project

At these meetings, vendors are strongly encouraged to identify and hire minority-owned and women-owned firms, as well as locally-based enterprises, for diverse business participation on all school building projects. Additional outreach strategies are discussed and utilized.

#### **SMALL BUSINESS ENTERPRISE (SBE) COMPLIANCE MONITORING**

The SDA regularly exceeds the State-mandated 25% SBE goal. The total SDA contract dollars awarded through January 31, 2019 was \$2,689,936. The figures below demonstrate compliance with this requirement.

#### **SBE Breakdown**

The total contract dollars awarded to all SBE contractors was \$1,504,858 (including minorities, women and veterans). This represents 55.94% of all SDA contracts.

<b>Type of Business Enterprise</b>	<b>Contract Amount</b>	<b>% of Total SDA Contracts</b>
Small Business Enterprises	\$ -0-	0.00%
Small/ Minority Business Enterprises	\$ -0-	0.00%
Small/Women Business Enterprises	\$ 1,504,858	55.94%
Small/Veteran Owned Business Enterprises	\$ -0-	0.00%
Small/Minority/Women Business Enterprises	\$ -0-	0.00%
<b>TOTAL SBE CONTRACTS</b>	<b>\$ 1,504,858</b>	<b>55.94%</b>

Members of the Authority  
 Contractor and Workforce Compliance Monthly Update  
 April 3, 2019  
 Page 2 of 3

## WORKFORCE COMPLIANCE MONITORING

For the month of January 2019, there was a contractor workforce of 772 on SDA projects. This represents a total of 66,212 contractor workforce hours as follows:

<b>Contractor Workforce Breakdown (All Trades/Districts/Counties)</b>			
<b>Ethnicity</b>	<b>Total Workforce</b>	<b>Total Workforce Hours</b>	<b>Workforce Hours Percentage</b>
Black	73	8,544	12.90%
Hispanic	123	9,622	14.53%
American Indian	3	210	0.32%
Asian	0	0	0.00%
<b>Total Minority Participation</b>	<b>199</b>	<b>18,376</b>	<b>27.75%</b>
Total Non-Minority Participation	573	47,836	72.25%

There was a contractor workforce of 66,212 total workforce hours and 770 total female workforce hours on SDA projects for the period of January 1, 2019 through January 31, 2019. The following table highlights the *Local County Contractor Workforce* participation for that period:

<b>Local County Workforce Participation</b>	<b>Workforce Hours</b>	<b>Percentage</b>
*Total Workforce Hours	66,212	100.00%
<b>*Total Local County Workforce Hours</b>	<b>7,432</b>	<b>11.23%</b>
<b>Total Local County Non-Minority Workforce Hours</b>	<b>3,289</b>	<b>4.97%</b>
<b>Total Local County Female Workforce Hours</b>	<b>173</b>	<b>0.26%</b>
<b>Total Local County Minority Workforce Hours</b>	<b>4,143</b>	<b>6.26%</b>
<b>**Local County Workforce Hours by Ethnicity:</b>		
Black	3,128	4.72%
Hispanic	1,015	1.53%
American Indian	0	0.00%
Asian	0	0.00%

\*Total workforce and total local county workforce represent all laborers including females.

\*\*Minority breakdown represents Black, Hispanic, American Indian, and Asian laborers. Minority female laborers are captured as female laborers only and are not included in the minority breakdown.

Members of the Authority  
 Contractor and Workforce Compliance Monthly Update  
 April 3, 2019  
 Page 3 of 3

The following table represents contractor and female workforce for all SDA active Capital Projects and all active and completed Emergent Projects for the period of January 1, 2019 through January 31, 2019.

<b>SDA Managed Project</b>	<b>Total Workforce Hours</b>	<b>Minority Workforce Hours &amp; Percentage</b>		<b>Local County Workforce Hours &amp; Percentage</b>	
East Orange, George W Carver ES	10,215	4,564	<b>44.68%</b>	2,170	<b>21.24%</b>
Garfield, James Madison ES	16	16	<b>100.00%</b>	0	<b>0.00%</b>
Harrison, New ES	3,640	738	<b>20.27%</b>	0	<b>0.00%</b>
Irvington, Madison Avenue ES	6,816	2,607	<b>38.25%</b>	2,056	<b>30.16%</b>
Millville, HS	2,828	605	<b>21.39%</b>	147	<b>5.20%</b>
Passaic, Leonard Place ES	4,867	601	<b>12.35%</b>	942	<b>19.35%</b>
Passaic, Dayton Ave ES	6,807	2,034	<b>29.88%</b>	696	<b>10.22%</b>
Pemberton, Denbo-Crichton ES	4,313	871	<b>20.19%</b>	0	<b>0.00%</b>
Perth Amboy, Seaman Avenue ES	10,661	1,707	<b>16.01%</b>	573	<b>5.37%</b>
Trenton, Central HS	14,965	4,146	<b>27.70%</b>	1,021	<b>6.82%</b>
Emergent Projects	1,084	487	<b>44.92%</b>	0	<b>0.00%</b>

Prepared by: Charlotte Brooks

**REGULAR OPERATING DISTRICTS (RODs) ACTIVITY REPORT**



**MEMORANDUM**

TO: Members of the Authority

FROM: Gregory Voronov  
Managing Director, Program Operations

DATE: April 3, 2019

SUBJECT: Regular Operating District Grant Activity Report  
(For Informational Purposes Only)

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This report summarizes the Regular Operating District Grant activity from inception to date and for the month of February 2019. Also included is a detailed list of grants executed and grants offered during the reporting period.

**Monthly Update:**

- No grants were offered during the reporting period.
- 3 grants impacted 2 districts were executed during the reporting period representing \$598k in total project costs and state share of \$278k.
- 14 grants impacting 8 districts were closed out during the reporting period representing \$9.2M in total project costs and state share of \$4.4M.
- Since inception, over \$2.8B has been disbursed to 524 regular operating districts through the grant program.
- Since inception over \$3.3B in funding has been approved by the Department of Education and offered to regular operating districts through the grant program.


**STATE OF NEW JERSEY**  
**SCHOOLS DEVELOPMENT AUTHORITY**  
 Monthly Regular Operating District Grant Report - Summary  
 February 2019

ROD Grant Summary Since Program Inception				
	Offered <sup>1</sup>	Executed	Closed-Out	Active
Districts Impacted	3	524	514	148
Number of Grant Projects	5	5,412	4,841	571
Total Project Cost Estimate	\$ 5,024,267	\$ 8,957,895,721	\$ 8,359,176,835	\$ 598,718,886
Grant Amount	\$ 2,009,708	\$ 3,013,514,251	\$ 2,750,632,890	\$ 262,881,361
Amount Disbursed	N/A	\$ 2,872,190,410	\$ 2,750,632,890	\$ 121,557,520

Total Funding Offered to School Districts via Grant Program	\$ 3,342,209,450
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Total ROD Grant Funding remaining for new Grant Projects	\$ 80,195,545
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1. Includes grants that have been offered to District's but have not yet been executed.

Monthly Activity ROD Grant Summary		
	Executed	Closed-Out
Districts Impacted	2	8
Number of Grant Projects	3	14
Total Project Cost Estimate	\$ 598,285	\$ 9,237,377
Grant Amount	\$ 278,020	\$ 4,356,544
Amount Disbursed	NA	\$ 4,356,544

\* Report is inclusive of all Regular Operating Districts grants (including vocational school districts).

\*\* Total Project Cost Estimate and Grant Amount may be adjusted as the projects advance. Grant Amount is capped at the value approved in the DOE Final Eligible Cost Approval.



Monthly Regular Operating District Grant Report - Monthly Executed Grant Detail

February 2019

County	District	School Name	Total Project Cost Estimate	Grant Amount	Project Description
Essex	Montclair	Edgemont E.S.	\$ 134,585	\$ 53,834	Toilet room upgrades, including new fixtures, finishes, HVAC and reconfiguration.
Morris	Wharton Borough	Alfred C. MacKinnon M.S.	\$ 430,615	\$ 208,190	Fire alarm system, hvac in gym, including new electrical service, locker room renovations
Morris	Wharton Borough	Marie V. Duffy E.S.	\$ 33,085	\$ 15,996	New ceramic tile in corridors
<b>Grand Total</b>		<b>Grants Executed - 3</b>	<b>\$ 598,285</b>	<b>\$ 278,020</b>	



**NOTIFICATION OF AMENDMENTS TO GOODS AND SERVICES CONTRACTS NOT EXCEEDING \$100,000 OR 10% OF THE CONTRACT VALUE *(no activity)***

**COMMUNICATIONS MONTHLY REPORT**



STATE OF NEW JERSEY

# SCHOOLS DEVELOPMENT AUTHORITY

32 EAST FRONT STREET  
P.O. BOX 991  
TRENTON, NJ 08625-0991  
609-858-5325

## MEMORANDUM

TO: Members of the Authority  
FROM: /s/ Tony Bianchini, Director of Communications  
DATE: March 20, 2019  
SUBJECT: Monthly Communications Report

### Social Media

SDA continues to grow its social media followers since we launched these accounts in September. We now have more than 2,175 followers. You can read about SDA news, events, projects and contractors on a variety of Social Media platforms. Please follow us on: Facebook, Twitter, Instagram and Snapchat: @NewJerseySDA; and on LinkedIN: Search New Jersey Schools Development Authority.

#### Current Statistics (as of March 20<sup>th</sup>)

- Facebook = 1,436 followers up from 490 followers reported at last month's meeting
- Twitter = 391 up from 357
- Instagram = 716 up from 579
- LinkedIN = 478 up from 452

### SDA Project News Articles

1. February 19, 2019 – NJBIZ – CBRE Heery to Construct New \$133M Camden High School – <https://njbiz.com/welcome-ad/?retUrl=/cbre-heery-construct-new-133m-camden-high-school/>
2. February 19, 2019 – ROI-NJ – NJSDA awards contract to CBRE | Heery to construct the new Camden High School – [http://www.roi-nj.com/2019/02/19/real\\_estate/njsda-awards-contract-to-cbre-to-construct-the-new-camden-high-school/](http://www.roi-nj.com/2019/02/19/real_estate/njsda-awards-contract-to-cbre-to-construct-the-new-camden-high-school/)
3. February 21, 2019 – Camden Courier Post – Contract Awarded for Construction of New Camden High – <https://www.courierpostonline.com/story/news/local/south-jersey/2019/02/21/contract-awarded-construction-new-camden-high/2938419002/>

### Events

#### March 7, 2019

On March 7<sup>th</sup>, more than 55 students from 30 of the 31 SDA Districts visited SDA offices in Trenton for our salute to International Women's Day. International Women's Day is celebrated in March every year and is a focal point in the movement for women's rights. This year marks the first time that the SDA has invited students from its 31 school districts to celebrate this day marking women's empowerment globally. It was a great event as students and their chaperones heard the stories of successful women at the SDA and took a tour of our offices.

Communications Report

March 20, 2019

Page 2 of 2

**Upcoming Events**

- We've scheduled a few community information sessions on ongoing and upcoming projects in Passaic and Perth Amboy
  - On April 9<sup>th</sup>, we will be holding the Dayton Avenue Educational Complex information session.
  - On April 30<sup>th</sup> – Perth Amboy High School open house/information session

**MONTHLY FINANCIAL REPORT**

## MEMORANDUM

**TO:** Members of the Authority

**FROM:** Sherman E. Cole, MBA, CPA /s/  
Controller

**DATE:** April 3, 2019

**SUBJECT:** Monthly Financial Report – February 2019

The Office of the Chief Financial Officer is providing the attached monthly financial report to Members of the Authority for their information. Included on pages 1 and 2 of this report is a “Financial Summary” of the Authority’s activities for the year. On pages 3, 3-1, and 4 of the report is a summary of the Authority’s operating expenditures. Page 5 contains a breakdown of the Authority’s headcount information by department. The basic financial statements follow on pages 6 and 7.

### **Fund Reporting Operating Expenses (Year-to-Date Actual vs. Budget)**

For February 2019 year to date, Authority operating expenses, **\$2.8 million**, are **\$248k** lower than budget projections for the *corresponding period*. The variance is attributed to lower year to date spending, related primarily to timing differences for Contract Services, **\$105K** (including Audit Fees, Project Services and DAG Fees) and Facilities & General Office Expenses, **\$88K**.

### **Fund Reporting Operating Expenses (Year-to-Date Actual vs. Prior Year Actual)**

For February 2019 year to date, Authority operating expenses, **\$2.8 million**, are **\$165K** higher when compared to the *corresponding prior year*. The increase is primarily due to higher personnel costs **\$180K**, offset by lower expenses related to the Newark office, utilities, and common area maintenance costs.

### **School Facilities Project Expenditures (Year-to-Date Actual vs. Forecast)**

For February 2019 year to date, project expenditures, **\$43.4 million**, are **\$4.8 million** lower than the capital spending forecast for the *corresponding period*. This variance is directly tied to reduced spending in grant activity, **\$4.6M**, and school furniture purchases, **\$2.9M**. These reductions were offset by an increase in construction activity, **\$3.4M**.

### **School Facilities Project Expenditures (Year-to-Date Actual vs. Prior Year Actual)**

For February 2019 year to date, project expenditures, **\$43.4 million**, are higher by **\$654K** when compared to the *corresponding prior year*. The variance includes increases in construction work, **\$4.8 million**, offset by a spending decrease in grant activity, **\$4.2M**.

*Members of the Authority*

*April 3, 2019*

*Page 2*

**Other**

Since program inception, 83.3% of the funds authorized for the SDA Districts have been disbursed. Additionally, since program inception, 96% of all SDA disbursements relate to school facilities projects and 4% relate to operating expense.

The *estimated value* of active school facilities projects is approximately \$1B.

Attachment

**New Jersey Schools Development Authority**  
**Monthly Financial Report**  
**February 2019**  
**(Unaudited)**



## New Jersey Schools Development Authority Overview of Financial Position February 28, 2019

**To:** The Audit Committee

**From:** Sherman E. Cole, Controller

The information contained in this monthly financial report is for the period as of, and for the year-to-date ending, February 28, 2019.

► Overall **Cash and Cash Equivalents** have increased by \$44.5 million to \$495.3 million, as follows:

■ Receipt of bond and note proceeds (Issued by EDA)	\$ -
■ Investment earnings	1,996,615
■ Miscellaneous revenue	2,000
■ Project costs	(43,386,844)
■ SDA operating expenses	(3,344,120)
■ SDA capital expenditures	(95,292)
■ Deposits (primarily district local shares)	355,508
Net Change in Cash	\$ (44,472,133)

► **Prepaid Expenses** total \$605,049 as follows:

- Prepaid insurance of \$381,051.
- Prepaid rents of \$125,218 for the Authority's leased office space in Trenton and Newark.
- Prepaid MIS maintenance service contracts of \$68,384.
- Other prepaids of \$30,396.

► **Capital Assets** total \$604,925 (net of accumulated depreciation of \$6,607,011), consisting of leasehold improvements (SDA offices), and capitalized software, equipment, furniture and fixtures in support of SDA operations. Depreciation on capital assets is generally calculated using the straight-line method over the life of each asset. For the year to date, **Capital Expenditures** are \$ 0 and **Depreciation Expense** is \$30,057.

► **Accrued Liabilities** total \$120.9 million, as follows:

- Accrued project costs of \$23.8 million consisting of unpaid invoices (\$7.7 million) and retainage (\$16.1 million).
- Accrued net pension liability of \$60.1 million (excludes 2018 GASB 68 entries).
- Post-employment benefits obligation of \$27.8 million (excludes 2018 GASB 75 OPEB entries).
- Pollution remediation obligations (PRO) under GASB 49 net to \$1.3 million (PRO liability \$3.0 million, offset by expected cost recoveries of \$1.7 million).
- Estimated liability for loss contingencies totaling \$3.1 million.
- Annual accrued pension payable of \$2.5 million (excludes 2018 GASB 68 entries).
- Payroll related liabilities of \$2.0 million.
- Other accrued liabilities of \$0.3 million.

► **Deposits** total \$4.0 million, as follows:

- \$4.0 million is held for local share agreements (pass-through item).

► The Authority's **Net Position** at month end is \$375.3 million.

## New Jersey Schools Development Authority School Facilities Project Expenditures & Funding Allocation February 28, 2019

### ► School Facilities Construction Bond / Note Proceeds & Project Expenditures

- During the current year to date, the SDA has received \$0 million bond and note proceeds. The total amount of proceeds received since program inception is \$11.148 billion.
- Project expenditures for the month and year-to-date periods total \$22.2 million and \$43.4 million, respectively, as follows:

<u>Category</u>	<u>Current Month</u>	<u>Current Year-To-Date</u>	<u>Since Program Inception</u>
Construction	\$ 15,313,469	28,162,218	\$ 4,886,578,675
Design Services	31,147	178,868	413,850,176
PMF/CM Services	469,361	957,442	457,398,229
SDA Project Management	936,923	1,964,026	87,189,982
Property Acquisition, Relocation & Enviro	527,822	904,254	579,231,774
School Furniture, Fixtures & Equipment	89,508	126,281	166,357,189
Project Insurance	-	(841)	106,213,563
NJ State Inter-Agency Transfers	86,043	170,686	50,136,679
SDA District Grant & Funding Agreements	73,268	755,290	872,656,434
Regular Operating District Grant Agreements	4,484,290	9,702,877	2,881,122,961
Real-Time Project Audits	-	-	628,000
Property Management, Maintenance & Utils	-	160,208	17,534,508
Outside Legal & Claims Resolution Services	86,183	130,496	9,711,969
Temporary Staffing	93,856	171,159	9,904,083
Other Project Costs	738	3,880	59,966,079
Project Credits	-	-	(54,902,944)
<b>Total Project Expenditures</b>	<b>22,192,608</b>	<b>43,386,844</b>	<b>10,543,577,357</b>
Less: Local Share Contributions	-	-	(183,516,137)
<b>Project Expenditures (State Share)</b>	<b>\$ 22,192,608</b>	<b>\$ 43,386,844</b>	<b>\$ 10,360,061,220</b>
 2019 Capital Spending Forecast	 \$ 23,721,557	 \$48,232,228	

### Allocations Since Program Inception

### ► Program Funding & Expenditures

- SDA Districts
- Regular Operating Districts
- Vocational Schools
- Total - State Share

	<u>Bonding Caps</u> <sup>1</sup>	<u>Total Funding</u> <sup>2</sup>	<u>Paid to Date</u> <sup>3</sup>
SDA Districts	\$ 8,900,000,000	\$ 9,019,800,805	\$ 7,509,593,119
Regular Operating Districts	3,450,000,000	3,497,303,461	3,198,578,357
Vocational Schools	150,000,000	151,890,277	117,174,937
<b>Total - State Share</b>	<b>\$ 12,500,000,000</b>	<b>\$ 12,668,994,543</b>	<b>\$ 10,825,346,413</b>

### ► Percentage of Total Funding Paid to Date

- SDA Districts 83.3%
- Regular Operating Districts 91.5%
- Vocational Schools 77.1%
- Total - State Share 85.4%

1 Of the \$12.5 billion authorized for the school construction program, \$11,147,702,648 principal amount of bond and note proceeds have been received to date.

2 Includes bonding cap amounts and other income and miscellaneous revenue earned to date (i.e., interest income on invested funds and State appropriations).

3 These amounts include the allocation of SDA operating expenses and capital expenditures totaling \$465,285,193.

## New Jersey Schools Development Authority Fund Reporting Operating Expenses vs Budget February 28, 2019

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<u>Category</u>	<u>Actual</u> <u>Year-To-Date</u>	<u>Budget</u> <u>Year-To-Date</u>	<u>Over/</u> <u>(Under)</u>
<b>Personnel Expenses:</b>			
Employee Salaries	\$ 3,257,779	\$ 3,444,786	\$ (187,007)
Employee Benefits	797,402	989,897	(192,495)
Direct Hire Temporary Employee Costs	12,042	26,912	(14,870)
Total Employee Salaries & Benefits Costs	4,067,223	4,461,595	(394,372)
<b>Less: Employee Salaries &amp; Benefits Costs</b>			
Charged to Projects	1,964,026	2,403,592	(439,566)
Salaries & Benefits Charged to Operating Expense	2,103,197	2,058,003	45,194
Temporary Staffing Services	577	25,000	(24,423)
Travel & Expense Reimbursements	1,959	7,498	(5,539)
Training & Professional Development	9,958	24,316	(14,358)
Total Personnel Expenses	2,115,691	2,114,817	874
<b>Non-Personnel Operating Expenses:</b>			
Facilities & General Office Expenses	379,214	466,946	(87,732)
Information Systems	258,936	226,166	32,770
Professional & Other Contracted Services	17,430	122,850	(105,420)
Property & Casualty Insurance	57,101	57,832	(731)
SDA-Owned Automobiles	13,118	79,166	(66,048)
Communications & Outreach	2,857	16,668	(13,811)
Reserve for Unforeseen Events & New Initiatives	-	8,334	(8,334)
<b>Total Authority Operating Expenses</b>	<b>\$ 2,844,347</b>	<b>3,092,779</b>	<b>\$ (248,432)</b>

2019 Annual Operating Budget

\$ 19,224,222

**New Jersey Schools Development Authority  
Capital Expenditures  
February 28, 2019**

7

	Budget Year	Budget Amount	Capital Expenditures		
			2019	Pre-2019	Total
<b>Description of Capital Item:</b>					
CM Software System - Estimated SDA Staff Time	2019	\$ 300,000	\$ -	\$ -	\$ -
CM Software System Purchase & Development	2018	1,500,000	-	162,544	162,544
Totals		\$ 1,800,000	\$ -	\$ 162,544	\$ 162,544

## New Jersey Schools Development Authority Fund Reporting Operating Expenses vs Prior Year February 28, 2019

<u>Category</u>	<u>Actual Year-To-Date</u>	<u>2018 Year-To-Date</u>	<u>Increase/ (Decrease)</u>
<b>Personnel Expenses:</b>			
Employee Salaries	\$ 3,257,779	\$ 2,889,748	\$ 368,031
Employee Benefits	797,402	791,859	5,543
Direct Hire Temporary Employee Costs	12,042	16,180	(4,138)
Total Employee Salaries & Benefits Costs	4,067,223	3,697,787	369,436
<b>Less: Employee Salaries &amp; Benefits Costs</b>			
Charged to Projects	1,964,026	1,773,006	191,020
Salaries & Benefits Charged to Operating Expense	2,103,197	1,924,781	178,416
Temporary Staffing Services	577	(619)	1,196
Travel & Expense Reimbursements	1,959	1,222	737
Training & Professional Development	9,958	9,857	101
Total Personnel Expenses	2,115,691	1,935,241	180,450
<b>Non-Personnel Operating Expenses:</b>			
Facilities & General Office Expenses	379,214	416,519	(37,305)
Information Systems	258,936	245,269	13,667
Professional & Other Contracted Services	17,430	15,967	1,463
Property & Casualty Insurance	57,101	55,963	1,138
SDA-Owned Automobiles	13,118	10,516	2,602
Communications & Outreach	2,857	-	2,857
Reserve for Unforeseen Events & New Initiatives	-	-	-
<b>Total Authority Operating Expenses</b>	<b>\$ 2,844,347</b>	<b>\$ 2,679,475</b>	<b>\$ 164,872</b>

# New Jersey Schools Development Authority

## Employee Headcount

### February 28, 2019

<b><u>SDA Department</u></b>	<b><u>Current Month End</u></b>
<b>Office of Chief Executive Officer</b>	2
<b>Office of Chief of Staff</b>	8
Human Resources	5
Communications	5
Legislative Affairs	3
Community Engagement	3
Business Compliance & Capacity Building	3
Business and Workforce Diversity	9
<b>Office of Corporate Governance &amp; Legal Affairs</b>	5
Policy	2
Chief Counsel	12
Internal Audit	4
<b>Office of Construction Operations</b>	1
Project Teams	35
<b>Office of Chief Operating Officer</b>	3
Real Estate Services & Predevelopment	8
Design Studio	15
Safety	6
Capital Planning & Program Operations	8
<b>Office of Administrative Operations</b>	2
Grants Administration	11
Property Management	5
Central Records Management	4
Facilities	7
Information Systems	15
<b>Office of the Chief Financial Officer</b>	1
Financial Operations	11
Financial Accounting & Disbursements	13
Procurement	9
Risk Management	9
 <b>Total Full-Time Employees</b>	 <b><u>224</u></b>
<b>2019 Year-To-Date Operating Budget</b>	<b><u>234</u></b>

# New Jersey Schools Development Authority

## Statement of Net Position

### February 28, 2019

**Excludes GASB 75 and GASB 68 entries**

	<u>Current Month End</u>	<u>2018 Year End</u>	<u>Increase/ (Decrease)</u>
<b>ASSETS</b>			
Cash and Cash Equivalents	\$ 495,322,422	\$ 539,794,555	\$ (44,472,133)
Receivables	30,755	29,828	927
Prepaid Expenses	605,049	87,623	517,426
Capital Assets (Net of Accumulated Depr.)	604,925	634,982	(30,057)
Total Assets	<u>496,563,151</u>	<u>540,546,988</u>	<u>(43,983,837)</u>
<b>DEFERRED OUTFLOWS OF RESOURCES</b>			
Deferred Amount for Pensions & OPEB	<u>19,330,393</u>	<u>19,330,393</u>	<u>-</u>
<b>TOTAL ASSETS &amp; DEFERRED OUTFLOWS OF RESOURCES</b>			
	<u>\$ 515,893,544</u>	<u>\$ 559,877,381</u>	<u>\$ (43,983,837)</u>
<b>LIABILITIES</b>			
Accrued Project Costs	\$ 28,233,095	\$ 55,843,835	\$ (27,610,740)
Net Pension Liability	60,083,669	60,083,669	-
Accrued Other Post-Employment Benefits	27,842,352	27,458,691	383,661
Other Accrued Liabilities	4,699,791	4,776,503	(76,712)
Deposits	3,971,644	3,616,136	355,508
Total Liabilities	<u>124,830,551</u>	<u>151,778,834</u>	<u>(26,948,283)</u>
<b>DEFERRED INFLOWS OF RESOURCES</b>			
Deferred Amount for Pensions & OPEB	<u>15,795,457</u>	<u>15,795,457</u>	<u>-</u>
<b>NET POSITION</b>			
Invested in Capital Assets	604,925	634,982	(30,057)
Restricted for Schools Construction:			
Special Revenue Fund	<u>374,662,611</u>	<u>391,668,108</u>	<u>(17,005,497)</u>
Net Position	<u>375,267,536</u>	<u>392,303,090</u>	<u>(17,035,554)</u>
<b>TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES &amp; NET POSITION</b>			
	<u>\$ 515,893,544</u>	<u>\$ 559,877,381</u>	<u>\$ (43,983,837)</u>

**New Jersey Schools Development Authority**  
**Statement of Activities**  
**February 28, 2019**

**Excludes GASB 75 and GASB 68 entries**

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	<u>Current Year-To Date</u>	<u>2018 Year-To Date</u>	<u>Increase/ (Decrease)</u>
<b>REVENUES</b>			
Program Revenues:			
Bond and Note Proceeds (Issued by EDA)	\$ -	\$ -	\$ -
Bidding Fees-Plans & Specs	-	-	-
General Revenues:			
Investment Earnings	1,996,615	1,103,205	893,410
Rental Income	2,000	-	2,000
Other Revenue-OPRA	-	30	(30)
Total Revenues	<u>1,998,615</u>	<u>1,103,235</u>	<u>895,380</u>
<b>EXPENSES</b>			
Administrative & General Expenses	3,228,007	3,043,186	184,821
Capital Depreciation	30,057	34,465	(4,408)
School Facilities Project Costs	15,776,105	18,367,915	(2,591,810)
Total Expenses	<u>19,034,169</u>	<u>21,445,566</u>	<u>(2,411,397)</u>
<b>CHANGE IN NET POSITION</b>	<b>(17,035,554)</b>	<b>(20,342,331)</b>	<b>3,306,777</b>
Beginning of Period Net Position	<u>392,303,090</u>	<u>392,740,734</u>	<u>(437,644)</u>
<b>NET POSITION END OF PERIOD</b>	<b><u>\$ 375,267,536</u></b>	<b><u>\$ 372,398,403</u></b>	<b><u>\$ 2,869,133</u></b>



**DESIGN CONTRACT DE-OBLIGATIONS REPORT** *(no activity)*

**PUBLIC COMMENT STATEMENT**

**We will now begin the Public Comment Portion of the Meeting consistent with the New Jersey Open Public Meetings Act.**

**We would ask that any member of the public who wishes to address the Board limit their comments to 3 minutes. If there are multiple individuals from the same organization or district who wish to address the Board on the same matter, we would ask that you come up together to offer your remarks.**

**Please keep in mind that public comment is to afford citizens the opportunity to comment on matters pertinent to the Authority's business. Should you seek answers to questions on any topic, please contact the Authority at 609-943-4585 at your convenience.**