

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD TELECONFERENCE MEETING
WEDNESDAY, OCTOBER 7, 2020 AT 9:00 A.M.**

1. NOTICE OF PUBLIC MEETING

2. ROLL CALL

3. APPROVAL OF MEETING MINUTES

- a. Board Open Session Meeting Minutes of September 2, 2020
- b. Board Executive Session Meeting Minutes of September 2, 2020

4. AUTHORITY MATTERS

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

5. REPORT AND RECOMMENDATIONS OF THE AUDIT COMMITTEE (CHAIRMAN'S REPORT)

- a. Network, Hardware and Software Support Service – GP-0273-R01

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

- a. Approval of Awards - Site Consultant Services for School Facilities Projects - GP-0270-L01
- b. Approval of Award – State-Wide Relocation Consultant Services – GP-0274- R01

- c. Company Name: Brockwell & Carrington Contractors, Inc.
District: Orange
Contract No.: ES-0043-C01
Original Contract Value: \$18,400,000.00
CM: Epic Management, Inc.
School Name: Cleveland Street Elementary School
Change Order No.: 5
Reason: Change Order No. 5 Resolving Construction Change Directive (CCD No. 1) – Change in Scope For Existing Building Redesign and Increase to Allowance No. 3 Hazardous Material Abatement & Related Activities Allowance
Amount: \$1,606,814.66

Contract Status: 10.55% Paid to Date against the Current Contract Value

Anticipated Occupancy Date: September 2021

Approval of Resolving Change Order No. 5 for CCD No. 1 and Approval of Revised Final Project Charter

- d. Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procedures For Low-Bid Procurement Of Construction Contracts For School Facilities Projects, N.J.A.C. 19:38
- e. Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procedures For Price And Other Factors Procurement Of Construction Contracts For New School Facilities Projects, N.J.A.C. 19:38B
- f. Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Program, N.J.A.C. 19:38A

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. Diversity and Workforce Participation 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 (*no 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

SEPTEMBER 2, 2020 OPEN SESSION MINUTES

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS TELECONFERENCE MEETING
WEDNESDAY, SEPTEMBER 2, 2020**

A teleconference meeting of the Board of Directors of the New Jersey Schools Development Authority (SDA or the Authority) was held on Wednesday, September 2, 2020 at 9:00 A.M.

Participating by teleconference were:

Robert Nixon, Chairman
Michael Kanef (Treasury)
Bernard Piaia (DOE)
Stephen Martorana (EDA)
Kevin Luckie (DCA)
Kevin Egan
Richard Elbert
Loren Lemelle
Lester Lewis-Powder
Michael Maloney
Mario Vargas

being all the Members of the Board.

At the Chairman's request, Manuel Da Silva, chief executive officer; Andrew Yosha, vice president; Jane F. Kelly, vice president and assistant secretary; Donald Guarriello, vice president and chief financial officer; and Albert Barnes, chief counsel, of the SDA, participated in the meeting by teleconference. Joy Johnson of the Governor's Authorities Unit (GAU) also participated in the meeting by teleconference.

The meeting was called to order by the Chairman of the Board, Mr. Nixon. The Chairman then asked Ms. Kelly to 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. She said that a call-in number was provided on the SDA Website so that members of the public could participate in the meeting by teleconference. She also advised the Members that the call-in number for the meeting was posted at the SDA offices earlier in the morning. Ms. Kelly then conducted a roll call and indicated that all the Members of the Board were participating.

Approval of Meeting Minutes

The Chairman presented for consideration and approval the minutes of the Board's August 5, 2020 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 Ms. Lemelle, the Open Session minutes of the August 5, 2020 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3a.***

Next, Mr. Nixon presented for consideration and approval the minutes of the Board's August 5, 2020 Executive 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 Ms. Lemelle, the Executive Session meeting minutes of the August 5, 2020 SDA Board meeting were approved with the Members' unanimous vote in favor of the resolution attached hereto as ***Resolution 3b.***

Audit Committee

Mr. Nixon, as Audit Committee Chairman, reported that the Audit Committee met on August 17, 2020 at which time management provided the Committee with the July 2020 New Funding Allocation and Capital Plan Update. He advised that staff reported the reallocation of \$55.6 million from the Unforeseen Events Reserve to the Capital Plan 2011 Emergent Projects

Reserve as approved by the Board at its August Meeting. He also advised that there was a \$9.3 million decrease in the 2011 Emergent Projects Reserve balance following the Board-approved release of funds for the Bridgeton Senior HS emergent project. Mr. Nixon said that there were no changes in any of the other reserve balances for the SDA Districts during the reporting period.

He then advised the Board that the reserve balance for the Regular Operating Districts (RODs) increased by \$1.9 million during the reporting period due to a reduction in state share for grant projects nearing completion.

Next, Mr. Nixon informed the Board that the Internal Audit Division provided the Committee with the results of two audits that were conducted to comply with the statutory requirement that capital portfolio projects with a state share over \$10 million be reviewed to assess whether state funds were expended in accordance with contractual terms, SDA practices and state regulations. He thanked Mr. Green and the Internal Audit Division for their reports.

Next, Mr. Nixon provided the July 2020 Monthly Financial Report. He advised the Members that the Authority's operating expenses (Actual vs. Budget) for the year-to-date period total \$8.8 million, \$2.3 million lower as compared to the budget for the corresponding period. He explained that this decrease is mainly attributable to lower personnel costs and lower expenses related to professional and other contracted services. He reported that year-to-date Authority operating expenses (Actual vs. Prior Year Actual) are \$2.2 million lower as compared to the operating budget for the corresponding prior year period. He explained that this decrease is mainly attributable to SDA having 36 fewer FTEs than the previous year. Mr. Nixon then reported that school facilities project expenditures (Actual vs. Forecast) for the year-to-date period total \$165.8 million, \$20.8 million lower as compared to the capital spending forecast for the corresponding period. He advised that this variance is the result of lower than forecasted expenditures in grants, construction activity, and property acquisitions. He reported that project

expenditures (Actual vs. Prior Year Actual), at \$165.8 million, are \$9 million lower as compared to the corresponding prior year period. He explained that the variance is due to a decrease in grant activity and school furniture purchases offset by an increase in expenditures for design services, project insurance, and construction activity. Mr. Nixon then reported that, since program inception, approximately 87.5% 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 the Board that the estimated value of active school facilities capital, emergent and regular operating district grant projects is approximately \$2 billion.

Mr. Nixon said that, in compliance with changes the Board made to the SDA's Bylaws and Audit Committee Charter, the CEO updated the Committee regarding Authority personnel matters and changes. He noted that none of the items reported requires Board consideration.

Next, Mr. Nixon said that, staff updated the Committee on the progress of the Authority's HR Consultant, Cowden Associates (Cowden). He reminded the Members that Cowden was tasked with reviewing enhancements for job descriptions, functional responsibilities and compensation levels and making recommendations. He said that they are also conducting operational efficiency evaluations and interviewing staff. Mr. Nixon advised that he had a conference call with the CEO of Cowden regarding the finalization of their reports. He said that the Cowden contract deliverables are being completed and will be forwarded to the SDA for consideration. He said that Cowden's work product will be discussed at the October Board Meeting. He advised that he also will be updating the Audit Committee at its September meeting. Mr. Nixon said that the Board would be making the final decisions on any actions to be taken in response to Cowden's recommendations.

In concluding his report, Mr. Nixon said that the Internal Audit Director provided the Committee with a report on the status of Open Recommendations and Suggestions for Improvement from the various project audits that have been conducted over the past several months. He said that management makes changes as the findings dictate.

Authority Matters

CEO Report

The Chairman then asked Mr. Da Silva for the Report of the CEO. Mr. Da Silva began his report with an update on the Authority's September 2020 school deliveries. He reported that this year SDA will deliver three new schools (East Orange Sheila Y. Oliver ES, Pemberton Denbo-Crichton ES and Harrison Kennedy ES) and one major addition (Millville Senior HS). He said that these schools represent a State investment of approximately \$178 million in Total Project Costs (\$177.8 million) and the delivery of a total of 2,660 new seats and 360,800 square feet. He advised that temporary certificates of occupancy (TCO) applications have been submitted to the Department of Community Affairs (DCA) for three (3) of the four (4) school facilities. He said that SDA staff is grateful for the assistance and support of the professionals at DCA and for their dedication to these projects despite the challenges that Covid-19 has presented.

Mr. Da Silva informed the Members that the SDA is working closely with the districts to ensure that the facilities are ready and in line with the districts' plans and proposed operational use.

Next, Mr. Da Silva gave an update on design-build projects in the design phase. He said that for the Plainfield Woodland ES project, the design-builder, Epic Management (Epic), is responding to SDA comments on the first design package submission. He advised that staff

anticipates authorizing Epic to mobilize on the site this month in preparation for the commencement of site work. He noted that staff will issue a notice-to-proceed (NTP) to Cambridge Construction Management, Inc., the construction management (CM) firm on the project, in coordination with Epic's commencement of site work.

Turning to design-build projects in construction, Mr. Da Silva said that exterior wall framing continues, and interior and exterior masonry work is ongoing for the Paterson Union Avenue MS project. He added that slab on grade installation is complete. For the Millville HS addition and renovations project, he reported that Phase III exterior brick veneer work is ongoing, as well as Phase III mechanical rough in work. With respect to the Passaic Dayton Avenue Educational Campus project, he advised that exterior brick veneer work is complete. He said that mechanical, electrical and plumbing (MEP), framing work and interior concrete masonry unit (CMU) wall installation activities are being completed throughout the building. He added that block fill painting of CMU has commenced. He also noted that drywall installation work is underway, site work is ongoing and the site is being prepared for winter.

Turning to design-bid-build projects in the construction stage, Mr. Da Silva informed the Members that the construction NTP was issued on August 21 for the Keansburg Port Monmouth Road School project, following completion of a constructability review and the approval of a resulting change order. He said that a kick-off meeting will be held this month with Niram, Inc., the construction contractor. He advised that on August 21, staff also issued an NTP for CM services to Pinnacle Construction & Consulting Services.

In continuing, Mr. Da Silva gave an update on projects in the programming stages. He said that DRG, the design consultant for the Hoboken Demarest ES project, has submitted a draft options report that includes options that recognize application of the educational program.

School Review Committee

Change Order No. 23 – Terminal Construction Corporation – Trenton Central High School

The Chairman asked Mr. Luckie to provide the report of the School Review Committee (SRC). Mr. Luckie reported that the SRC met on August 17, 2020 at which time one item was discussed. He informed the Members that management is seeking Board approval of a Change Order for Terminal Construction Corporation (Terminal) for the Trenton Central HS (TCHS) project (Project). He said that the new TCHS is an approximately 374,000 square foot facility constructed to educate 1,850 students in grades ten through twelve. He reported that on March 2, 2016, the SDA Board approved a final charter and the award of a design-build construction contract to Terminal in the amount of \$116 million for the Project. He reminded the Members that Terminal was issued a NTP in April 2016 for design and construction, and that the new High School was completed and opened to students in September 2019. Mr. Luckie explained that Change Order No. 23 in the amount of \$0.00 would reallocate approximately \$535,000.00 of unused, remaining funds within the guaranteed maximum price (GMP) Reserve Allowance from three (3) scope categories where funds are no longer needed, to three (3) different scope categories where work was performed in excess of prior allowance funding. He advised that Change Order No. 23 will not increase the current, overall GMP Reserve total. He said that while the \$0.00 amount of this Change Order is well below the Operating Authority's \$500,000 threshold for change orders requiring Board approval, management is presenting this to the Board since the value of the allowance funds being reallocated exceeds \$500,000.00. He said that the Board should be aware that the reallocation of funds within the overall GMP Reserve Allowance is management's recommended alternative to the issuance of separate change orders. He noted that this allows the Authority to avoid the unnecessary duplication of bond and

insurance mark-ups. Mr. Luckie said that all documents supporting Change Order No. 23 have been reviewed by staff and were determined to be reasonable and appropriate.

A resolution pertaining to this matter was provided to the Board in advance of the meeting. Upon motion duly made by Mr. Vargas, and seconded by Ms. Lemelle the Board approved the proposed Change Order No. 23 with its unanimous vote in favor of ***Resolution 6a***.

Public Comments

Mr. Nixon then opened the Public Comments portion of the meeting. He asked Heather Sorge to address the Board. Ms. Sorge reminded the Members that she represents the Healthy Schools Now/Work Environment Council Coalition. She said that she was hoping to obtain a status update at some point on the Authority's mercury flooring initiative. She said that she is aware that the SDA has been conducting testing at the State's school facilities.

Mr. Da Silva advised Ms. Sorge that testing of the flooring is underway and that significant progress has been made. He asked Mr. Yosha to provide additional details. Mr. Yosha said that he would first address the process that the Authority is following in advancing the initiative. He said that the Authority has completed the process of inspecting each of the approximately 140 school facilities to determine if the rubber flooring at issue was installed there. He said that the next step in the process is the performance of bulk testing at those facilities where such testing has been identified as necessary. He said that he expects this testing process to conclude by the end of the current month (September). Mr. Yosha said that, at that point, management would be in a position to provide feedback to the Districts, the SDA Board and Ms. Sorge regarding the results of the testing.

Ms. Sorge thanked Mr. Yosha for the status update. No other member of the public expressed an interest in addressing the Board.

Mr. Nixon then announced that the Board would be adjourning into Executive Session. Ms. Kelly advised that the Board would be adjourning into Executive Session to discuss the status of a proposed conveyance of SDA-owned properties in Irvington, New Jersey. She said that no Board action will be taken on this matter. She asked that the Chairman present ***Resolution 9.*** for Board consideration.

Upon motion duly made by Mr. Vargas and seconded by Ms. Lemelle, the Board resolved to adjourn the meeting into Executive Session to discuss the matter so described with its unanimous vote in favor of ***Resolution 9.***

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 September 2, 2020 meeting.

/s/ Jane F. Kelly
Assistant Secretary

Resolution—3a./3b.**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 September 2, 2020 Board meeting of the New Jersey Schools Development Authority, for the Open and Executive Sessions were forwarded to the Governor on September 2, 2020.

NOW, THEREFORE, BE IT RESOLVED, that the minutes of the New Jersey Schools Development Authority's September 2, 2020 Open and Executive Session meetings are 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: October 7, 2020

AUTHORITY MATTERS

CEO REPORT

CHAIRMAN'S REPORT

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

**APPROVAL OF AWARD - NETWORK, HARDWARE AND SOFTWARE SUPPORT
SERVICES CONTRACT - GP-0273-R01**



STATE OF NEW JERSEY

SCHOOLS DEVELOPMENT AUTHORITY32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-943-5955**5****MEMORANDUM**

TO: Members of the Authority

FROM: Sean Murphy
Director, Procurement

Anthony T. Gilfillan
Director, Information Systems

DATE: October 7, 2020

SUBJECT: Approval of Award
Package No. GP-0273-R01
Network, Hardware and Software Support Services

INTRODUCTION

The NJSDA most recently procured Network, Hardware and Software Support Services in 2016. Since the current contract will expire in October 2020, the Members of the Authority are requested to approve the award of a contract to a firm with relevant experience and qualifications to successfully perform the required Network, Hardware and Software Support Services. The term of the agreement for this contract is three (3) years with an option by the NJSDA to extend the agreement for one (1) additional year. The contract will have a not-to-exceed amount of \$1,000,000 over the initial term and any extension thereof.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, Board approval is required for the award of goods and services contracts greater than \$100,000.

BACKGROUND

In order to ensure that critical systems do not experience failures that lead to excessive network outages or extended system outages, the NJSDA requires the services of a firm to be on call to provide critical network, hardware and software maintenance services, including on-site technical support and consulting services. The firm will assist the NJSDA Information Systems Department with diagnosing computer and network related problems, isolating reported problems, and implementing repairs. The firm will also act in a consultative capacity for software or system changes and will be expected to provide computer components on an as-needed basis.

PROCUREMENT PROCESS

This procurement was advertised beginning on June 30, 2020 on the NJSDA website, on the NJ State website and in selected newspapers for interested firms to participate in the bidding process. Outreach was also performed via e-mail.

A Selection Committee consisting of four (4) NJSDA staff members was established.

Responsive proposals were received from four (4) firms by July 29, 2020. The Technical Proposals were evaluated by the Selection Committee. Evaluations were based upon the information provided by the firms in response to the Request for Proposals ("RFP") for this procurement. The Selection Committee members independently evaluated the Technical Proposals based on the following criteria:

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 Network, Hardware and Software Support Services
 October 7, 2020
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- Firm Experience
- Team Structure
- Key Team Member Experience and Qualifications
- Approach to Providing the Scope of Services
- Approach to Service Level Agreement Performance

Each Selection Committee member evaluated each Technical Proposal, assigning a raw score for each criterion on a scale of 0 to 10 as follows:

- Outstanding (9-10): depth and quality of response offers significant advantages.
- Superior (7-8): exceeds RFP requirements with no deficiencies.
- Sufficient (5-6): meets RFP requirements with no significant deficiencies.
- Minimal (3-4): meets RFP requirements but contains some significant deficiencies.
- Marginal (1-2): comprehends intent of RFP but contains many significant deficiencies.
- Unsatisfactory (0): requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors were applied to each of the Selection Committee member's raw scores for each criterion to arrive at a total weighted score as indicated in Table 1 below:

TABLE 1

Criteria	Weighting Factor (Applied to Raw Score)	Maximum Weighted Points
Firm Experience	3.0	30
Team Structure	1.0	10
Key Team Member Experience and Qualifications	2.0	20
Approach to Providing the Scope of Services	3.0	30
Approach to Service Level Agreement Performance	1.0	10
Total Possible Points		100

For each firm's Technical Proposal, the individual criteria scores awarded by a particular Selection Committee member were added together to calculate a score for that Technical Proposal. The maximum Technical Proposal score is 100. All of the scores awarded by the Selection Committee members to a particular firm's Technical Proposal were added together and averaged to arrive at a Final Technical Proposal Score for each firm. The responsive firms, their scores and rankings are listed in Table 2 below:

TABLE 2

Firm	Final Technical Proposal Score	Technical Proposal Rank
Stellar Services	78.2500	1
International Digital Systems	62.0000	2
ExterNetworks	61.1250	3
Advanced Computer Technologies	56.5000	4

The RFP stipulated that a shortlist of the three (3) highest-ranked firms would be determined based on the Final Technical Proposal Scores. The shortlisted firms participated in interviews with the Selection

Members of the Authority
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 Network, Hardware and Software Support Services
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Committee on August 24, 2020. The interviews allowed the firms to expand and detail their firm and team experience with respect to NJSDA requirements. The Selection Committee interviewed each of the shortlisted firms and evaluated each firm on Interview Criteria and Weighting Factors that were the same as those used in the evaluation of the Technical Proposals, as detailed above.

The individual criteria scores awarded by a particular Selection Committee member were added together to calculate an Interview Score for that firm. The maximum Interview Score is 100. All of the Interview Scores awarded to a particular firm by the Selection Committee members were added together and averaged to arrive at a Final Interview Score for each firm. The shortlisted firms, their scores and rankings are listed in Table 3 below:

TABLE 3

Firm	Final Interview Score	Interview Rank
Stellar Services	81.7500	1
International Digital Systems	62.0000	2
ExterNetworks	60.2500	3

The Final Interview Score for each shortlisted firm was added to the Final Technical Proposal Score for each such firm, and the two scores were averaged to arrive at a Final Combined Score for each shortlisted firm. The maximum Final Combined Score is 100. The shortlisted firms, their scores and rankings are listed in Table 4 below:

TABLE 4

Firm	Final Combined Score	Final Rank
Stellar Services	80.0000	1
International Digital Systems	62.0000	2
ExterNetworks	60.6875	3

The highest-ranked firm was Stellar Services.

The Fee Proposals, which had been kept separate and sealed, were then opened on August 26, 2020. The fee schedule required that firms provide loaded hourly rates for identified job titles. The proposed loaded hourly rates are listed in Table 5 below:

TABLE 5

Job Title	Advanced Computer Technologies	ExterNetworks	International Digital Systems	Stellar Services
Help Desk Analyst	\$85.00	\$50.00	\$40.00-\$80.00	\$75.00
Field Technician	\$105.00	\$75.00	\$40.00-\$80.00	\$125.00
Desktop Deployment Technician	\$105.00	\$60.00	\$40.00-\$80.00	\$95.00
Systems/Network Administrator	\$125.00	\$80.00	\$51.00-\$102.00	\$155.00
IT Infrastructure Consultant	\$125.00	\$90.00	\$51.00-\$102.00	\$175.00
IT Project Management	\$125.00	\$95.00	\$51.00-\$102.00	\$175.00
IT Application Consultant	\$155.00	\$90.00	\$51.00-\$102.00	\$185.00
IT DBA Services	\$155.00	\$80.00	\$57.00-\$114.00	\$175.00

Members of the Authority
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 Network, Hardware and Software Support Services
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After reviewing the hourly rates proposed by all firms, it was determined on the basis of comparison that the loaded hourly rates proposed by the highest-ranked firm, Stellar Services, are generally higher than the rates proposed by the other bidders but are comparable to the rates NJSDA is currently paying to the incumbent Network, Hardware and Software Support Services consultant. Therefore, NJSDA staff negotiated reductions to most of Stellar Services' proposed loaded hourly rates. The negotiated loaded hourly rates are listed in Table 6 below:

TABLE 6

Stellar Services	
Job Title	Loaded Hourly Rate
Help Desk Analyst	\$75.00
Field Technician	\$105.00
Desktop Deployment Technician	\$95.00
Systems/Network Administrator	\$140.00
IT Infrastructure Consultant	\$165.00
IT Project Management	\$165.00
IT Application Consultant	\$175.00
IT DBA Services	\$165.00

RECOMMENDATION

The Members of the Authority are requested to approve the NJSDA contracting with Stellar Services to provide Network, Hardware and Software Support Services at the loaded hourly labor rates listed in Table 6 above. The term of the agreement shall be for a period of three (3) years or until all obligations of the consultant to deliver services pursuant to the Agreement have been performed to the satisfaction of the NJSDA, whichever occurs later. The term may be extended for one (1) additional year, if such extension is permissible by existing regulations at the time of extension, in which case the term shall extend through such additional period or until all obligations of the consultant to deliver services pursuant to the Agreement have been performed to the satisfaction of the NJSDA, whichever occurs later. Any such extension shall be subject to Operating Authority approval. The contract will have a not-to-exceed amount of \$1,000,000 over the initial term and any extension thereof.

Prior to execution of the contract, the contract and related documentation will be reviewed and approved by the NJSDA Division of Chief Counsel.

/s/ Sean Murphy
 Sean Murphy, Director, Procurement

/s/ Anthony T. Gilfillan
 Anthony T. Gilfillan, Director, Information Systems

Reviewed and Recommended by: Manuel Da Silva, Chief Executive Officer

Reviewed and Recommended by: Donald Guarriello, Vice President and Chief Financial Officer

Resolution—5a.

Approval of Award
Package No. GP-0273-R01
Network, Hardware and Software Support Services Contract

Resolution

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority) requires that the Members of the Authority authorize and approve the award of contracts for certain professional goods and services; and

WHEREAS, in order to avoid critical systems failures that lead to excessive network or extended system outages, the SDA has long retained the services of a firm to provide critical network, hardware and software maintenance services, including on-site technical support and consulting services (the Services); and

WHEREAS, such Services were competitively procured by SDA for such purposes in 2006, 2008, 2013 and 2016; and

WHEREAS, since SDA's current engagement for the provision of the Services will expire in October 2020, it has again become necessary to award a contract for the Services with the result that a competitive procurement process to obtain the same was commenced by SDA on June 30, 2020; and

WHEREAS, following a two-step competitive procurement process, management recommends the award of a contract for the Services to Stellar Services, upon terms set forth in detail in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, the details of the competitive procurement process followed by management to obtain the Services are fully described in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

NOW, THEREFORE, BE IT RESOLVED, that the Members of the Authority hereby authorize and approve the award of a contract to the highest-ranked firm, Stellar Services, to provide the Authority with Network, Hardware and Software Services consistent with the provisions of the memorandum presented to the Board on this date and incorporated herein.

BE IT FURTHER RESOLVED, that, prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

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, Approval of Award, Package Network, Hardware and Software Support Services, No. GP-0273-R01, dated October 7, 2020

Dated: October 7, 2020

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

**APPROVAL OF AWARDS - SITE CONSULTANT SERVICES FOR SCHOOL
FACILITIES PROJECTS - GP-0270-L01**



STATE OF NEW JERSEY

SCHOOLS DEVELOPMENT AUTHORITY32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-858-5395**MEMORANDUM**

TO: Members of the Authority

FROM: Sean Murphy
Director, Procurement

RE: District: Statewide
Description: Site Consultant Services for School Facilities Projects
Package No.: GP-0270-L01
Estimated Fee: \$36,000,000 (aggregate not-to-exceed amount)

DATE: October 7, 2020

SUBJECT: Approval of Awards for Site Consultant Services

INTRODUCTION

The Authority is requesting the Members' approval to award contracts to a new pool of twelve firms to provide site consultant services. Through these twelve engagements resulting from a competitive procurement process, the NJSDA will have available a pool of site consultants with relevant experience and qualifications to successfully perform the required site consultant services. Specific work assignments under the contracts will be made by way of "task order" on an as needed basis. The term of agreement for these contracts is three years. For any assignment(s) accepted during the term of the agreement, the firm(s) will be allowed to complete the particular assignment(s), even if extending beyond the term of the agreement. Each of the twelve contracts will individually have a not-to-exceed amount of \$3,000,000.

Task order assignments under this engagement are contemplated to include predesign and site feasibility; environmental site review; early site development; site/civil planning and design; design-build construction administration; emergent projects; limited architectural and structural engineering and design services; and project closeout activities associated with school facilities projects. It is within the NJSDA's discretion to issue any number of task orders to a site consultant during the term of the agreement. Task orders will be awarded pursuant to rotational assignments to pool members for performance of services on a time and materials not-to-exceed basis in accordance with the standardized hourly rates established by the NJSDA (see attached Exhibit A), with consideration given to the firms': (1) capacity to undertake the assignment; (2) unique local municipality or school district experience; (3) specialized experience applicable to the assignment; (4) commitment to meet schedule requirements; (5) past performance; (6) assessment of potential conflicts of interest; and (7) previous awards on the contract, including the number and aggregate contract value, in an effort to equitably distribute the work.

The contract term, aggregate not-to-exceed amount, standardized hourly rates and the recommended Board action are consistent with those approved by the Members on September 6, 2017 for the preceding procurement action for Site Consultant Services (Package No. GP-0243-L01) which will be expiring in January 2021.

Members of the Authority
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 Site Consultant Services for School Facilities Projects
 October 7, 2020
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PROCUREMENT PROCESS

This procurement was advertised beginning on May 29, 2020 on the NJSDA website, the New Jersey State website, and in selected newspapers for interested firms to participate in the bidding process. In addition, the advertisement was distributed to those firms that were pre-qualified with a minimum rating of \$10,000,000 in either the Civil Engineering (P005) discipline or the Environmental Engineering (P011) discipline by both the Department of Treasury-Division of Property Management and Construction and the NJSDA.

A Selection Committee consisting of five NJSDA staff members and one alternate was established.

Responsive proposals were received from thirty-one (31) firms by July 10, 2020. The Technical Proposals were evaluated by the Selection Committee. Evaluations were based upon the information provided by the firms in response to the Request for Proposals (“RFP”) for this procurement. The Selection Committee members independently evaluated the Technical Proposals based on the following criteria:

- Firm’s Site Consultant Experience;
- Firm’s Approach to Providing Quality Deliverables; and
- Firm’s Approach to Managing the Contract.

Each Selection Committee member evaluated each Technical Proposal, assigning a raw score for each criterion on a scale of 0 to 10 as follows:

- Outstanding (9–10): depth and quality of response offers significant advantages.
- Superior (7-8): exceeds RFP requirements with no deficiencies.
- Sufficient (5-6): meets RFP requirements with no significant deficiencies.
- Minimal (3-4): meets RFP requirements but contains some significant deficiencies.
- Marginal (1-2): comprehends intent of RFP but contains many significant deficiencies.
- Unsatisfactory (0): requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors were applied to each of the Selection Committee member’s raw scores for each criterion to arrive at a total weighted score as indicated in Table 1 below:

TABLE 1

Criteria	Weighting Factor (Applied to Raw Score)	Maximum Weighted Points
Firm’s Site Consultant Experience	4.0	40
Firm’s Approach to Providing Quality Deliverables	3.0	30
Firm’s Approach to Managing the Contract	3.0	30
Total Possible Points		100

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For each firm's Technical Proposal, the individual criteria scores awarded by a particular Selection Committee member were added together to calculate a score for that Technical Proposal. The maximum Technical Proposal score is 100. All of the scores awarded by the Selection Committee members to a particular firm's Technical Proposal were added together and averaged to arrive at a Technical Proposal Score for each firm. The responsive firms, their scores and rankings are listed in Table 2 below:

TABLE 2

Firm	Technical Proposal Score	Technical Proposal Rank
Dewberry Engineers, Inc.	76.9000	1
Mott MacDonald, LLC	73.8000	2
Van Note-Harvey Associates, Inc.	72.8000	3
Brinkerhoff Environmental Services, Inc.	72.1000	4
Aptim Environmental & Infrastructure, LLC	70.4000	5
WSP USA Solutions, Inc.	70.1000	6
T & M Associates	69.1000	7
GZA GeoEnvironmental, Inc.	65.7000	8
Paulus, Sokolowski and Sartor, LLC	63.2000	9
Dresdner Robin Environmental Management, Inc.	59.1000	10
STV Incorporated	58.5000	11
Lan Associates, Engineering, Planning, Architecture, Surveying, Inc.	57.8000	12
Whitman	57.4000	13
French & Parrello Associates, P.A.	57.0000	14
E2 Project Management, LLC	56.9000	15
Maser Consulting, P.A.	56.0000	16
Remington & Vernick Engineers	54.9000	17
CDI-Infrastructure, LLC dba L.R. Kimball	54.4000	18
Boswell Engineering, Inc.	53.0000	19
CHA Consulting, Inc.	51.1000	20
Sadat Associates, Inc.	49.8000	21
NV5, Inc.	48.8000	22
Matrix New World Engineering, Land Survey and Landscape Architecture, PC	48.6000	23
Najarian Associates, Inc.	45.3000	24
Bohler Engineering NJ, LLC	44.4000	25
Yu & Associates, Inc.	44.2000	26
Adams, Rehmann & Heggan Associates, Inc.	39.2000	27
Jarmel Kizel Architects and Engineers, Inc.	39.2000	27
CME Associates	38.2000	29
Neglia Engineering Associates	37.1000	30
Bowman Consulting	34.1000	31

Members of the Selection Committee were satisfied that the information contained within the Technical Proposals was sufficient for their evaluations and determined that interviews would not be necessary.

Members of the Authority
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Site Consultant Services for School Facilities Projects
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Accordingly, the Technical Proposal Scores and Technical Proposal Rankings became the Final Technical Scores and Final Rankings.

Based on NJSDA staff review of the Final Technical Scores and Final Rankings, it was determined to select the twelve most highly-ranked firms for recommendation of award.

RECOMMENDATION

The Members of the Authority are requested to approve the NJSDA contracting with the twelve most highly-ranked firms, as listed in Table 2, at the standardized hourly rates set forth in Exhibit A to this memorandum. Each firm would enter into a contract for a not-to-exceed amount of \$3,000,000 over the three year term of the agreement.

Prior to execution of each contract, the contract and related documentation will be reviewed and approved by the NJSDA Division of Chief Counsel.

/s/ Sean Murphy
Sean Murphy, Director, Procurement

Reviewed and Recommended by: Manuel Da Silva, Chief Executive Officer
Reviewed and Recommended by: Andrew Yosha, Vice President, Program Operations and Strategic Planning
Reviewed and Recommended by: Donald Guarriello, Vice President and Chief Financial Officer

EXHIBIT A**STANDARDIZED HOURLY RATES**

Staff Category	Hourly Rate
SENIOR PROFESSIONAL STAFF (more than 15 years relevant experience, license, firm practice leader)	
Principal Architect / Principal Environmental Specialist / Principal PE	\$200
Project Manager	\$175
Engineering Manager / Sr. Environmental Specialist	\$175
Licensed Professional Engineer – Sr. Geotechnical Engineer	\$175
Licensed Site Remediation Professional (LSRP) – Professional Geologist	\$175
Sr. Certified Industrial Hygienist (CIH) – Indoor Environmental Health	\$175
Sr. Risk Assessor / Toxicologist	\$175
Historical & Cultural Resources Specialist	\$150
Expert Testimony (Litigation Support, Depositions)	\$175
Expert Testimony (Court Defense)	\$200
MID-LEVEL SUPPORT STAFF (more than 10 years relevant experience)	
Field Project Manager / Project Environmental Specialist	\$150
Project Geologist / Hydrogeologist / Biologist / Ecologist / Project Engineer	\$150
LEED Specialist / Commissioning Specialist / E-Rate Specialist	\$150
Specifications Writer / QA/QC Specialist / Construction Administrator	\$150
Geotechnical Engineer / Civil Engineer / Structural Engineer	\$150
Plumbing - Fire Protection Engineer / HVAC Engineer / Electrical Engineer	\$150
Educational Planner	\$150
Certified Industrial Hygienist (CIH) / Licensed Mold Inspector	\$150
Project Architect/ Staff Planner / Traffic Engineer / Acoustic Specialist	\$150
Landscape Architect / Environmental Specialist	\$125
Licensed Professional Engineer / Geotechnical / Construction Admin.	\$150
Health & Safety Specialist	\$150
Project Scientist / Licensed Mold / ACM/Haz Mat Inspector	\$125
Risk Assessor / Toxicologist	\$125
Staff Architect	\$125
Cost Estimator / Scheduling Specialist	\$100
CAD / Draftsperson	\$95
TECHNICAL STAFF (less than 10 years relevant experience)	
Environmental Scientist / Environmental Staff	\$105
Geologist / Hydrogeologist	\$105
Data Validation Chemist	\$105
Site Engineer (EIT) / Demolition Oversight / CM	\$105
Health & Safety Personnel	\$105
Haz Mat Sampling Technician	\$95
Biologist - Ecologist	\$105
Administrative / Clerical	\$65
Field Sampling Personnel – Noise / Traffic / Air Data Collection	\$95

Resolution—6a.

Approval of Award
Package No. GP-0270-L01
Site Consultant Services

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority), adopted by the Board on December 1, 2010, requires that the Members of the Authority approve the SDA's award of contracts for the provision of professional services; and

WHEREAS, in 2003, 2008, 2011, 2015 and 2017, the SDA entered into contracts with several firms for the provision of environmental task order services and to provide for site feasibility investigation and environmental site closure services; and

WHEREAS, the current task order contracts will expire in January 2021; and

WHEREAS, SDA executive management has determined it reasonable and appropriate to seek Board approval to now award contracts to twelve firms thereby creating a new pool of firms with relevant experience and qualifications to successfully perform the required site consultant services; and

WHEREAS, the term of agreement for each of these contracts shall be for a three year period and each of the twelve individual contracts shall have a not-to-exceed amount of \$3,000,000; and

WHEREAS, the recommendation to award presented by executive management follows a procurement procedure conducted in accordance with applicable SDA regulations as described in comprehensive detail in the memorandum presented to the Board on this date; and

WHEREAS, prior to execution, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

NOW, THEREFORE, BE IT RESOLVED, that, the Members of the Authority hereby authorize SDA management to contract with the twelve firms that were most highly-ranked upon completion of a competitive procurement process seeking the provision of site consultant services.

BE IT FURTHER RESOLVED, that the twelve firms shall perform the site consultant services at the standardized hourly rates so presented for an amount not-to-exceed \$3,000,000 over the three year term of the agreement and otherwise consistent with the terms fully set forth in the meeting materials presented to the Board on this date and incorporated herein.

BE IT FURTHER RESOLVED, that, prior to execution, each contract and related documentation shall be reviewed and approved by the SDA Division of Chief Counsel.

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, Approval of Award, Package No. GP-0270-L01, Site Consultant Services,
dated October 7, 2020

Dated: October 7, 2020

**APPROVAL OF AWARDS - STATE-WIDE RELOCATION CONSULTANT SERVICES
- GP-0274-R01**



32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-943-5955

MEMORANDUM

TO: Members of the Authority

FROM: Sean Murphy
Director, Procurement

Jacqueline Howard
Director, Property Management

DATE: October 7, 2020

SUBJECT: Approval of Award
Package No. GP-0274-R01
State-Wide Relocation Consultant Services

INTRODUCTION

The NJSDA most recently procured State-Wide Relocation Consultant Services in 2017. Since the current task order contract will expire in December 2020, the Members of the Authority are requested to approve the award of a contract to a firm with relevant experience and qualifications to successfully perform the required State-Wide Relocation Consultant Services. Specific work assignments under the contract will be made by way of “task order” on an as-needed basis. The term of the agreement for this contract is three (3) years. For any assignment(s) accepted during the term of the agreement, the firm will be allowed to complete the particular assignment(s), even if extending beyond the term of the agreement. The contract will have a not-to-exceed amount of \$3,000,000.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, Board approval is required for the award of consultant contracts greater than \$100,000.

DESCRIPTION

When the Authority initially engages the consultant to perform relocation services, the consultant is required to submit to the Authority a budget proposal for the project assignment based upon the expected number of hours required for the various relocation services and the hourly rates contained in the contract. All such proposals are subject to Authority review and approval. The relocation consultant is responsible for completing all required services for any such project assignments in accordance with applicable laws and regulations governing relocation assistance.

PROCUREMENT PROCESS

This procurement was advertised beginning on July 24, 2020 on the NJSDA website, the New Jersey State website, and in selected newspapers for interested firms to participate in the bidding process. Outreach was also performed via e-mail.

A Selection Committee consisting of four (4) NJSDA staff members was established.

Responsive proposals were received from two (2) firms by August 19, 2020. The Technical Proposals were evaluated by the Selection Committee. Evaluations were based upon the information provided by the firms in response to the Request for Proposals (“RFP”) for this procurement. The Selection

Members of the Authority
 Approval of Award
 Package No. GP-0274-R01
 State-Wide Relocation Consultant Services
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 Page 2

Committee members independently evaluated the Technical Proposals based on the following criteria:

- Team's Relevant Experience Providing Relocation Services
- Qualifications & Relevant Experience of Key Team Members
- Approach to Providing the Scope of Services
- Approach to Scheduling and Budget

Each Selection Committee member evaluated each Technical Proposal, assigning a raw score for each criterion on a scale of 0 to 10 as follows:

- Outstanding (9–10): depth and quality of response offers significant advantages.
- Superior (7-8): exceeds RFP requirements with no deficiencies.
- Sufficient (5-6): meets RFP requirements with no significant deficiencies.
- Minimal (3-4): meets RFP requirements but contains some significant deficiencies.
- Marginal (1-2): comprehends intent of RFP but contains many significant deficiencies.
- Unsatisfactory (0): requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors were applied to each of the Selection Committee member's raw scores for each criterion to arrive at a total weighted score as indicated in Table 1 below:

TABLE 1

Criteria	Weighting Factor (Applied to Raw Score)	Maximum Weighted Points
Team's Relevant Experience Providing Relocation Services	4.0	40
Qualifications & Relevant Experience of Key Team Members	2.0	20
Approach to Providing the Scope of Services	2.0	20
Approach to Scheduling and Budget	2.0	20
Total Possible Points		100

For each firm's Technical Proposal, the individual criteria scores awarded by a particular Selection Committee member were added together to calculate a score for that Technical Proposal. The maximum Technical Proposal score is 100. All of the scores awarded by the Selection Committee members to a particular firm's Technical Proposal were added together and averaged to arrive at a Technical Proposal Score for each firm. The responsive firms, their scores and rankings are listed in Table 2 below:

TABLE 2

Firm	Technical Proposal Score	Technical Proposal Rank
O.R. Colan Associates	81.5000	1
Cornerstone Group	55.0000	2

Members of the Selection Committee were satisfied that the information contained within the Technical Proposals was sufficient for their evaluations and determined that interviews would not be necessary. Accordingly, the Technical Proposal Scores and Technical Proposal Rankings became the Final Technical

Members of the Authority
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 State-Wide Relocation Consultant Services
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Scores and Final Rankings.

The Fee Proposals, which had been kept separate and sealed, were then opened on August 28, 2020. The fee schedule required that firms provide loaded hourly rates for identified job titles. The proposed loaded hourly rates are listed in Table 3 below:

TABLE 3¹

Job Title	O.R. Colan	Cornerstone
Project Manager	\$165.00	\$200.00
Quality Control	\$125.00	\$200.00
Senior Relocation Agent	\$125.00	\$185.00
Staff Relocation Agent	\$125.00	\$160.00
Administrative/Clerical	\$62.00	\$130.00
Technical Advisor	\$185.00	N/A
Corporate Executive	\$180.00	N/A
Program Manager	\$180.00	N/A
Translator	\$80.00	N/A
Relocation Trainee	\$75.00	N/A

After reviewing the hourly rates proposed by both firms, it was determined on the basis of comparison that the loaded hourly rates proposed by the highest-ranked firm, O.R. Colan Associates, are lower than the rates proposed by the other bidder but are generally higher than the rates NJSDA is currently paying to O.R. Colan Associates, the incumbent State-Wide Relocation Consultant Services firm. Therefore, NJSDA staff negotiated reductions to several of O.R. Colan Associates' proposed loaded hourly rates. The negotiated loaded hourly rates are listed in Table 4 below:

TABLE 4

Job Title	O.R. Colan
Project Manager	\$160.00
Quality Control	\$125.00
Senior Relocation Agent	\$125.00
Staff Relocation Agent	\$115.00
Administrative/Clerical	\$62.00
Technical Advisor	\$180.00
Corporate Executive	\$180.00
Program Manager	\$180.00
Translator	\$80.00
Relocation Trainee	\$75.00

¹ The Fee Proposal Form required that firms provide loaded hourly rates for identified job titles. As permitted by the Fee Proposal Form, O.R. Colan opted to provide loaded hourly rates for additional human resources that may be required during contract performance.

Members of the Authority
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State-Wide Relocation Consultant Services
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RECOMMENDATION

The Members of the Authority are requested to approve the NJSDA contracting with O.R. Colan Associates to provide State-Wide Relocation Consultant Services at the loaded hourly labor rates listed in Table 4 above. The contract will have a not-to-exceed amount of \$3,000,000 over the term of the agreement. The term of the agreement shall be for a period of three (3) years or until all obligations of the consultant to deliver services pursuant to the Agreement have been performed to the satisfaction of the NJSDA, whichever occurs later.

Prior to execution of the contract, the contract and related documentation will be reviewed and approved by the NJSDA Division of Chief Counsel.

/s/ Sean Murphy
Sean Murphy, Director, Procurement

/s/ Jacqueline Howard
Jacqueline Howard, Director, Property Management

Reviewed and Recommended by: Manuel Da Silva, Chief Executive Officer

Reviewed and Recommended by: Donald Guarriello, Vice President and Chief Financial Officer

Resolution—6b.

Approval of Award
Package No. GP-0274-R01
State-Wide Relocation Consultant Services

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Resolution

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority) requires that the Members of the Authority approve the SDA's award of contracts for the provision of professional services; and

WHEREAS, in 2003, 2005, 2011, 2014 and 2017, the SDA entered into contracts for state-wide relocation consultant services; and

WHEREAS, the current contract will expire in December 2020; and

WHEREAS, the Members of the Authority are requested to approve the award of a contract to a firm with relevant experience and qualifications to successfully perform the required relocation services; and

WHEREAS, on July 24, 2020, the SDA commenced a single-step process to procure a relocation services consultant; and

WHEREAS, the details of the procurement process followed and the scope of the services to be provided pursuant to the contract are set forth in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, upon completion of the procurement process, management is recommending that the Board authorize SDA management to contract with O.R. Colan Associates to provide state-wide relocation consultant services at rates set forth in the memorandum presented to the Board on this date, for the not-to-exceed amount of \$3,000,000 over the three year term of the contract; and

WHEREAS, prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

NOW, THEREFORE, BE IT RESOLVED that the Members of the Authority hereby authorize and approve the award of a contract (GP-0274-R01) to O.R. Colan Associates for state-wide relocation consultant services at the rates so specified and for a not-to-exceed amount of \$3,000,000 over the three year term of the contract, consistent with the memorandum presented to the Board on this date and the exhibits appended thereto.

BE IT FURTHER RESOLVED that, prior to execution of the contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

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, Approval of Award, Package No. GP-0274-R01, State-Wide
Relocation Consultant Services, dated October 7, 2020

Dated: October 7, 2020

**RESOLVING CHANGE ORDER NO. 5 - BROCKWELL & CARRINGTON
CONTRACTORS, INC. AND REVISED FINAL PROJECT CHARTER- ORANGE
CLEVELAND STREET ELEMENTARY SCHOOL**



STATE OF NEW JERSEY
SCHOOLS DEVELOPMENT AUTHORITY

32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-943-5955

MEMORANDUM

TO: Members of the Authority

FROM: Bob Ryan
Program Director, Construction Operations

Gregory Voronov
Managing Director, Planning and Program Operations

DATE: October 7, 2020

SUBJECT: Action No. 1: Change Order No. 5 – Resolving CCD No. 1 – Existing Building Redesign and Increase to Allowance #3 Hazardous Material Abatement and Related Activities Allowance
Action No. 2: Revised Final Project Charter

COMPANY NAME: Brockwell & Carrington Contractors, Inc.
DISTRICT: Orange
CONTRACT NO.: ES-0043-C01
ORIGINAL CONTRACT VALUE: \$18,400,000.00
CM: Epic Management, Inc.
SCHOOL NAME: Cleveland Street Elementary School
CHANGE ORDER NO.: 5
REASON: Change Order No. 5 Resolving Construction Change Directive (CCD No. 1) – Change in Scope For Existing Building Redesign and Increase to Allowance No. 3 Hazardous Material Abatement & Related Activities Allowance

AMOUNT: \$ 1,606,814.66
CONTRACT STATUS: 10.55% Paid to Date against the Current Contract Value
ANTICIPATED OCCUPANCY
DATE: September 2021

INTRODUCTION

We are writing to recommend approval by the Members of the Authority of two related actions necessary to address conditions in the existing school building at the Orange Cleveland Street Elementary School project in the Orange School District:

1. Change Order No. 5
 - a. Resolving CCD No. 1 issued on August 13, 2020 for \$0.00 (zero dollars) for scope associated with additional construction activities to address deficiencies at the existing school building and various components of compensation for such scope.
 - b. Increase to Allowance No. 3 Hazardous Material and Related Activities Allowance necessary to address scope associated with additional asbestos abatement and lead stabilization activities to address unstable ACM wall finishes and peeling lead paint.
2. Revised Final Project Charter representing the project budget inclusive of dollar values for construction, appropriate contingency, allowances, NJSDA staff costs, other costs and prior allocation of funds for professional services to complete the project moving forward.

A CCD is a contractual mechanism reserved for use when the work at issue has been verified to be a change to the base scope, and one of the following two conditions are met: either the work is so urgent that it requires a directive for immediate action by the General Contractor (GC), or negotiations for a change order have failed to come to a resolution, thereby placing the work in the critical path requiring immediate direction to avoid construction delays impacting a schedule milestone, e.g. school turn-over to the district. A resolving change order

Orange School District – Cleveland Street ES Addition and Renovation
Change Order No. 5 – RCO for CCD No. 1 Existing Building Redesign and Increase to Allowance #3 Hazardous
Materials Abatement and Related Activities Allowance
Revised Final Project Charter
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is the mechanism by which the final dollar value of the CCD is determined. It is the combined value of the CCD and the resolving CO that determines the required level of approval for the resolving change order.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, a change order that singularly exceeds \$500,000.00 or singularly or in the aggregate is greater than 10% of the contract value requires approval by the Members of the Authority. Change Order No. 5 singularly exceeds \$500,000.00. Approval of this change order when aggregated with prior change orders will serve to fully deplete the contingency contained within the Final Project Charter approved by the Members in March 2019 necessitating a revision at this time.

We are also requesting approval from the Members of the Authority to establish the adjusted construction Contract value as the baseline construction Contract value for the purpose of the application of ongoing Operating Authority requirements. The reestablished value for this purpose shall be the contract value inclusive of Change Order Nos. 1 to 5 or \$20,419,311.81.

BACKGROUND

The Orange Cleveland Street Elementary School, built in 1898, is a 38,750 square foot facility educating 306 students in grades Kindergarten to 7. The project scope is anticipated to include an approximately 11,550 square foot addition and renovations to the existing facility to address overcrowding at the existing facility and will allow a change in grade alignment to Pre-K through Grade 6 consistent with the District's approved Long Range Facilities Plan (LRFP) at the Orange Cleveland Street Elementary School.

An investigation of the existing, then occupied facility was performed within appropriate parameters for an occupied facility through the NJSDA's engagement with LAN Associates (LAN) to provide Pre-Design, Design and Construction Administration Phase services.

To support efficient prosecution of the project's Construction phase, the NJSDA engaged a firm to perform abatement and selective demolition work before advancing an engagement with a separate firm to perform construction for the addition and renovation scope. The award to Two Brothers Contracting, Inc. (TBC) for abatement and selective demolition was approved by the Board on November 7, 2018, and TBC's work was completed on May 13, 2019.

The award to Brockwell & Carrington (B&C) for Construction Services and the Final Project Charter for the addition and renovation scope was approved by the Board on March 6, 2019. On May 2, 2019, the NJSDA issued a Notice to Proceed (NTP) for the performance by B&C of a Constructability Review. As part of the Constructability Review scope of work per the Contract, B&C was to verify the following: Constructability of the Work, Coordination of the Work, Elimination of Conflicts in the Work, and Completeness of the Work as detailed in the Contract Documents.

Consistent with the contract requirements, B&C submitted a proposed change order at the conclusion of the Constructability Review to remedy identified Constructability Review deficiencies and waived its rights to further change orders resulting from deficiencies in the documents that could or should have been identified during the Constructability Review. After a series of negotiations, Change Order No.1 was approved by the NJSDA in January 2020 in the net total amount of \$411,505.89. On January 13, 2020, B&C was issued a NTP for Construction Services.

Work is progressing on the addition to the Cleveland Street ES, with masonry, exterior veneer and interior conduit work ongoing. Structural repairs and basement wall waterproofing are ongoing in the existing building.

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 Change Order No. 5 – RCO for CCD No. 1 Existing Building Redesign and Increase to Allowance #3 Hazardous
 Materials Abatement and Related Activities Allowance
 Revised Final Project Charter
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CHANGE ORDER NO. 5

Change Order No. 5 includes two elements, discussed separately below: 1) Resolution of CCD No. 1 and 2) Increase to Allowance No. 3.

RESOLVING CONSTRUCTION CHANGE DIRECTIVE #1

REASON FOR CHANGE

After the NJSDA authorized B&C to proceed with the Constructability Review, but before issuance of the NTP for Construction, previously unidentified deficiencies were revealed within the existing Cleveland Street ES after the abatement and demolition work was completed by TBC.

Through the advancement of Amendment No. 10, the NJSDA authorized LAN to perform an existing building condition assessment and provide design services to address the building conditions. The assessment would include a report of observations and recommendations from LAN and its sub consultants (Mechanical, Plumbing, Electrical and Structural Engineers), with recommendations to address current building conditions exposed after the abatement work was completed. On December 9, 2019, LAN submitted its existing building conditions assessment report, including their recommendation to address the existing building conditions, as well as plans and specifications for the necessary additional construction scope to address the previously unidentified building conditions. A full review of these documents was conducted by NJSDA Construction Operations, Design Studio, and Epic, the NJSDA-engaged Construction Management Firm.

In order to mitigate potential schedule delay attributable to the additional work required to address the deficiencies identified in the existing school building, the NJSDA issued a CCD directing B&C to perform the work as described in the existing building conditions assessment report, plans and specifications prepared by LAN, titled Revision 5, Amendment No. 10 dated December 20, 2019 with such work to be advanced concurrently with the performance of the base contract scope, in support of the anticipated school opening in September 2021.

SCOPE AND VALUE OF CHANGE – RESOLUTION OF CCD

On January 14, 2020 the NJSDA sought a proposal from B&C for the work included in the plans and specifications provided by LAN, specifically:

- Waterproofing to eliminate water infiltration from exterior building facade at the ground floor level
- Additional structural horizontal & vertical supports for structurally unstable and deteriorated existing ceiling and floor framing
- Additional fire stopping at all floor joists
- Window structural supports
- Additional insulation
- Mechanical ventilation
- New flooring finishes

These are not conditions that would reasonably be expected to have been revealed during the course of the Constructability Review: they do not pertain to either the Constructability of the Work, Coordination of the Work, Elimination of Conflicts in the Work, or Completeness of the Work as detailed in the Contract Documents. For these reasons, we believe this is a legitimate post-Constructability Review change order, one that is outside

Orange School District – Cleveland Street ES Addition and Renovation
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B&C's waiver of its rights to further change orders resulting from deficiencies in the documents that could or should have been identified during the Constructability Review.

In preparing a price proposal, B&C and its subcontractors (Structural Steel, Mechanical, Plumbing, Electrical) conducted several site visits to inspect the conditions of the existing facility. After these field visits and review of the amended plans and specifications, B&C issued 32 Requests for Information. The NJSDA field team, LAN and B&C conducted a series of meetings to review and answer the RFI's. As a result of these meetings additional renovation scope was identified concerning the condition of the existing sub floor and its stability. A review by SDA, LAN and Epic Management determined that removal and replacement of the existing sub floors is required in order to ensure a stable warranted floor system, and this additional scope was added to this change order.

On 2, May 28, 2020 B&C submitted an initial, incomplete, price proposal, made complete on July 22, 2020 for the amount of \$1,363, 183.00. NJSDA staff inclusive of Financial Operations and Epic reviewed the proposal submitted and responded to B&C on July 27, 2020. B&C issued a revised proposal on August 18, 2020, which was reviewed and negotiated with B&C, NJSDA staff inclusive of Financial Operations and Epic. All parties agreed to a Final Lump Sum value of \$1,206,617.58.

Change Order No. 5 will resolve CCD No. 1, which was issued to address the additional deficiencies identified at the existing school building as detailed in the amended plan set titled Revision 5, Amendment No. 10 dated December 20, 2019. As discussed below, Change Order No. 5 will also increase funding for Allowance No. 3 established for hazardous material abatement and related activities.

INCREASE TO ALLOWANCE NO. 3

REASON FOR CHANGE

As stated above, it was determined that removal and replacement of the existing subfloor system is required, a system with varied depths of floor elevations. Performance of this work, being advanced through CCD No. 1, necessarily entails removal and abatement of additional ACM in the existing subfloor and plaster walls.

On August 18, 2020, B&C provided a proposal to perform the ACM abatement work consistent with plans and specifications issued by LAN and its environmental consultant, AHERA Consultants, Inc. (AHERA).

The Contract Documents include a value of \$100,000 for Allowance No. 3 Hazardous Materials Abatement and Related Activities. This value is insufficient to support the level of additional abatement that is now required due to the conditions noted above. As such, it must be increased to allow for the abatement work to be fully advanced.

SCOPE AND VALUE OF CHANGE – INCREASE TO ALLOWANCE

The following additional abatement scope is now required:

- Asbestos abatement of existing flooring down to subfloor and plaster walls; and
- Lead stabilization throughout existing building.

The additional abatement now required results from added scope that would not reasonably be expected to have been revealed during the course of the Constructability Review, as explained above.

In preparing a price proposal, B&C and its abatement subcontractors conducted site visits to inspect the conditions of the existing facility. On August 18, 2020 B&C submitted an initial price proposal in the lump sum amount of \$644,247.82, revised to \$630,197.08 on September 2, 2020. The revised price proposal and the level

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of effort it represents were reviewed by relevant SDA staff and Epic, a review that determined that the amount is reasonable and appropriate. All parties agreed to a Final Lump Sum value of \$630,197.08.

Partial funding for the needed work is available within existing contract funds, thereby allowing initial abatement work to begin expeditiously, mitigating the potential for delay of the work advancing through issuance of CCD No.1. Existing contract funds supporting the initial advancement of abatement work are:

- Existing Allowance No. 3 funding of \$100,000
- Reallocation of \$130,000 from the unused and no longer needed Allowance No. 6 that had been established for Stormwater Improvement work¹

Therefore, \$400,197.08 in additional funding is required to fully address the costs associated with the additional abatement scope. Change Order No. 5 will provide needed increased funding to Allowance No. 3.

ASSESSMENT OF VALUE OF CHANGE

All documents supporting both elements of this change order resolving CCD No.1 and increasing Allowance No.3 have been reviewed by the associated NJSDA Project Team Members and the Program Director for adherence to current NJSDA policy and procedures. All reviewing NJSDA staff members, including the Design Studio and Financial Operations, have determined that the items included in this change order are justified and the amount is reasonable and appropriate.

CALCULATIONS

a. Original Contract Amount	\$ 18,400,000.00
b. Change Orders to Date* (excluding proposed resolving change order)	\$ 412,497.15
c. Proposed Change Orders Amount	\$ 1,606,814.66
d. Total Change Orders to Date including this Change Order (Total of Line (b.) and Line (c.))	\$ 2,019,311.81
e. Percentage Change to Original Contract (Line (d.) represents a percent of Line (a.))	10.97%
f. Proposed Adjusted Contract Price (Line (a.) plus Line (d.))	\$ 20,419,311.81

* This amount is inclusive of the value of CCD No. 1 in the amount of \$0.

REVISED FINAL PROJECT CHARTER

On March 6, 2019, the Members of the Authority approved the Final Project Charter for the Orange Cleveland Street Elementary School and the award of a contract to Brockwell & Carrington Contractors, Inc.

The change order being advanced for approval when aggregated with prior approved change orders will serve to fully utilize the contingency contained within the Board approved Final Project Charter. As such, we are seeking approval of a Revised Final Project Charter for the Orange Cleveland Street Elementary School project.

¹ Allowance No. 6 was established to provide for appropriate storm water drainage to the Project in the event the work was not otherwise performed by the City of Orange. In early February 2020, the Stormwater Improvement work associated with this allowance was completed by the City of Orange. Therefore, the Stormwater Improvement allowance is no longer needed. As such, on September 23, 2020, NJSDA management approved a \$0.00 (Zero dollar) change order to reallocate \$130,000.00 from the Stormwater Improvement allowance to the Hazardous Material and Related Activities Allowance

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The revision to the Final Project Charter will serve to replenish contingencies and increase budget line items depleted by design changes and construction change orders, in particular the changes related to Constructability Review Change Order No. 1 and Change Order No. 5. Additionally, the revision will provide additional contingency funding for both construction and design services necessary to support completion of the project. The additional contingency represents approximately 10% of the balance of work to be completed.

REASON FOR RE-ESTABLISHMENT OF CONTRACT VALUE

As detailed above, this Project has encountered a significant change in the scope of renovations and related hazardous materials abatement in the existing building. We believe that the value inclusive of this work as well as prior executed change orders inclusive of the Constructability Review change order represents the true value of the work necessary to implement the addition and renovation project. Therefore, we recommend that the adjusted value inclusive of Change Order Nos. 1 to 5 is the appropriate baseline for the on-going application of Operating Authority requirements.

If approved, management will again seek Board approval should future change orders individually exceed \$500,000, or singularly or in the aggregate exceed 10% of the reestablished Contract amount of \$20,419,311.81 as set forth above.

RECOMMENDATION

The Members of the Authority are requested to approve:

1. Change Order No. 5 to Resolve CCD No. 1 and Increase Allowance No. 3 (Hazardous Materials Abatement and Related Activities Allowance) in the amount of \$1,606,814.66.
2. Revised Final Project Charter representing the project budget inclusive of dollar values for construction, appropriate contingency, allowances, NJSDA staff costs, other costs and prior allocation of funds for professional services to complete the project moving forward.
3. Reestablishment of the construction Contract value for this existing engagement for the purpose of the application of ongoing Operating Authority requirements. The reestablished value for this purpose shall be the contract value inclusive of Change Order Nos. 1 to 5 for a total adjusted Contract value of \$20,419,311.81.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, a change order that singularly exceeds \$500,000.00 or singularly or in the aggregate is greater than 10% of the contract value requires approval by the Members of the Authority. Change Order No. 5 singularly exceeds \$500,000.00.

/s/ Bob Ryan

 Bob Ryan, Program Director, Construction Operations

/s/ Gregory Voronov

 Gregory Voronov, Managing Director, Planning and Program Operations

Reviewed and Recommended by: Andrew Yosha, Vice President, Program Operations and Strategic Planning

Reviewed and Recommended by: Nicole Burnet, Deputy Director, Construction Operations

Prepared and Recommended by: Claire Tsai-Ochs, Senior Program Officer, Construction Operations

New Jersey Schools Development Authority Project Charter - Summary

Region: Northern
District: Orange
Project Name: Cleveland Street Elementary School
School Type: Elementary School
DOE # / Project #: 3880-070-01-0969
Project Type (New/Add/Reno): Add/Reno
Project Location: 355 Cleveland Street Orange, NJ
Number of Students 316 (FES) 348 (Max)

Charter Date
10/07/20
Supersedes Charter Dated
03/06/19

Land Acquisition Required? Yes No
Temporary Space Required? Yes No

Funding Source
2012 Capital Plan
Funding Allocated
\$33,243,608

Project Budget: \$ 34,978,332
Anticipated Substantial Completion Date 07/19/21
Anticipated School Occupancy Date Sep-21

District Local Share
\$60,000

Project Team Leader: Robert Ryan
Project Initiation Date: 08/05/15
SDA Board - Project Charter Approval Date: 10/07/20

Charter Version and Date	Project Summary
<input type="checkbox"/> Planning 08/03/16	Addition and Renovations to the existing Cleveland Street ES to address facility conditions deficiencies and overcrowding at the elementary school grade levels to educate 316 students in grades Pre-K to 6. Project is comprised of 11,550 GSF addition and 41,400 GSF of renovations necessary to accommodate the elementary school educational program.
<input type="checkbox"/> Preliminary 11/07/18	
<input checked="" type="checkbox"/> Final 03/06/19	
Purpose for Advancement of Current/Revised Project Charter	
Replenishment of contingency due to unforeseen additional renovation scope and related hazardous material abatement.	
District Project Goals	
The project, when advanced in conjunction with the Orange HS project, will serve to address current overcrowding at the elementary school grade level and facility conditions deficiencies.	

Recommendation

Program Director - Program Operations	Date	Managing Director - Prog Ops & Planning	Date
Robert Ryan		Gregory Voronov	
Vice President - Construction Operations	Date	VP - Strategic Planning & Program Operations	Date
Vacant		Andrew Yosha	

Approval

 Chief Executive Officer Date
 Manual Da Silva

New Jersey Schools Development Authority Project Charter - Milestones & Delivery Method						Charter Date 10/07/20	
District / Project Name:		Orange / Cleveland Street Elementary School					
DOE # / Project #:		3880-070-01-0969					
Project Milestones					Date		
School Occupancy Date					Sep-21		
DELIVERY METHOD			Design/Bid/Build				
Real Estate Services		Start	Est.	Act.	Finish	Est.	Act.
Feasibility		10/30/14	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12/18/14	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EO215 Requirements			<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Site Acquisition		Complete	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Complete	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Relocation		Complete	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Complete	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Demolition		03/15/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/31/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Remediation		03/15/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/31/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Deed Restriction Required?		N/A	Date				
District Notified?		N/A	<input type="checkbox"/>	<input type="checkbox"/>			
Classification Exception Area?		N/A					
District Notified?		N/A	<input type="checkbox"/>	<input type="checkbox"/>			
Special Considerations							
Design:		Date	Est.	Act.			
Design Start (NTP)		09/03/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
Design Restart (if applicable)		N/A	<input type="checkbox"/>	<input type="checkbox"/>			
		Start	Est.	Act.	Finish	Est.	Act.
Program Concept Phase		09/03/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>	08/03/16	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schematic Design Phase		08/30/16	<input type="checkbox"/>	<input checked="" type="checkbox"/>	02/14/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Design Development Phase		02/02/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/12/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Construction Documents Phase		09/12/17	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12/13/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCA Review		03/09/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>	12/13/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bid and Award		08/07/18	<input type="checkbox"/>	<input checked="" type="checkbox"/>	05/02/19	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Special Considerations							
Construction:		Date	Est.	Act.			
Construction Start (NTP)		05/06/19	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
Substantial Completion (TCO)		07/19/21	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
School Occupancy Date		Sep-21	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Title Transfer		08/19/21	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Final Completion (C of O)		10/16/21	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Post Occupancy Walk Through		06/18/22	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Project Close-Out		07/18/22	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Special Considerations							
Construction Start (NTP) represents the issuance of the NTP to initiate the Constructability Review. An Authorization-to-Proceed with construction to the General Contractor upon completion of the Constructability Review was issued in Jan. 2020.							

**New Jersey Schools Development Authority
Project Charter - Project Budget**

Charter Date
10/07/20

District / Project Name:	Orange / Cleveland Street Elementary School
DOE # / Project #:	3880-070-01-0969

2012 Capital Plan Funding Allocation	\$ 33,243,608
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Special Considerations:

The project budget is based upon the award amount for the General Construction engagement, current commitments for all existing contracts and estimated costs for future scope elements. The project budget is inclusive of all prior expenditures including Design Services performed by LAN, costs for completed site acquisition and demolition, and the award value for the selective demolition and abatement contract to prepare the building for the advancement of the addition and renovation project. The budget has been revised to incorporate the need for additional contingency necessary to support advancement of the project to completion. The General Construction engagement includes \$1,150,000 in allowances: \$220,000 Constructability Review; \$200,000 for Security Systems, \$170,000 for Impacted & Unsuitable Material; \$145,000 for Emergency Responder Radio System; \$0 for Stormwater Improvement (\$130,000 reallocated to Hazardous Materials); \$125,000 for LED Lighting; \$230,000 for Hazardous Materials (inclusive of \$130,000 reallocated from Stormwater Improvement); and \$60,000 for Multi-Purpose Room Wood Flooring System and Interior Aluminum Handrails.

Project Budget:

Gross Building Area (GSF):		Grossing Factor:
		1.50
	New Addition	11,550
	Renovation	41,400
Total Gross Building Area (GSF):		52,950
Estimated Building Cost / GSF	\$302.17	

Construction Costs:

Building Costs	\$16,000,000
Site Costs	\$1,250,000
Allowances	\$1,150,000
Demolition & Abatement (ESP #2)	\$983,370
Construction Contingency (Original)	\$1,900,000
Construction Contingency (Additional)	\$1,500,000
Total Construction Costs	\$22,783,370

Pre-Development Costs:

Consultant Services	\$279,351
Early Site Package	\$290,230
Land Acquisition	\$486,511
Relocation	\$303,679
Property Maintenance/Carry Costs	\$174,848
Total Pre-Development Costs	\$1,534,619

Other Costs:

Design	
Prior Design Services	\$889,344
Current Design	\$2,330,000
Project Management (SDA Staff)	\$1,684,000
PMF/CM	\$1,304,000
FF&E	\$910,000
Technology	\$900,000
Temporary Space	\$2,200,000
Other Costs	\$503,000
Total Other Costs	\$10,720,344

Other Funding Sources

Rebates & Refunds	\$0
District Local Share Funds	(\$60,000)
Total Other Funding Sources	(\$60,000)

Total Project Budget	\$34,978,332
Funding from Prior Allocation	\$1,124,071
Funding from 2012 Capital Plan	\$33,854,262

**New Jersey Schools Development Authority
Project Charter - Budget Variance**

Charter Date
10/07/20

District / Project Name: Orange / Cleveland Street Elementary School
DOE # / Project #: 3880-070-01-0969

Project Budget:

	Final Project Charter 03/06/19	Current Budget	VARIANCE Fav/(Unfav)
Grossing Factor:	1.50	1.50	
Gross Building Area (GSF):			
New Addition	11,550	11,550	0
Renovation	41,400	41,400	0
Total Gross Area (GSF):	52,950	52,950	0
Construction Costs			
Building Costs	\$16,000,000	\$16,000,000	\$0
Site Costs	\$1,250,000	\$1,250,000	\$0
Allowances	\$1,150,000	\$1,150,000	\$0
Selective Demolition & Abatement (ESP #2)	\$983,370	\$983,370	\$0
Construction Contingency (Original)	\$1,900,000	\$1,900,000	\$0
Construction Contingency (Additional)	\$0	\$1,500,000	(\$1,500,000)
Total Construction Costs	\$21,283,370	\$22,783,370	(\$1,500,000)
Pre-Development Costs:			
Consultant Services	\$279,351	\$279,351	\$0
Early Site Packages (Demolition/Remediation)	\$290,230	\$290,230	\$0
Land Acquisition	\$487,317	\$486,511	\$806
Relocation	\$303,679	\$303,679	\$0
Property Maintenance/Carry Costs	\$157,318	\$174,848	(\$17,530)
Total Pre-Development Costs	\$1,517,895	\$1,534,619	(\$16,724)
Other Costs:			
Design			
Prior Design Services	\$889,344	\$889,344	\$0
Current Design	\$2,112,000	\$2,330,000	(\$218,000)
Project Management (SDA Staff)	\$1,684,000	\$1,684,000	\$0
PMF/CM	\$1,304,000	\$1,304,000	\$0
FF&E	\$910,000	\$910,000	\$0
Technology	\$900,000	\$900,000	\$0
Temporary Space	\$2,200,000	\$2,200,000	\$0
Other Costs	\$503,000	\$503,000	\$0
Total Other Costs	\$10,502,344	\$10,720,344	(\$218,000)
Other Funding Sources			
Rebates & Refunds	\$0	\$0	\$0
District Local Share Funds	(\$60,000)	(\$60,000)	\$0
Total Other Funding Sources	(\$60,000)	(\$60,000)	\$0
Total Project Budget	\$33,243,608	\$34,978,332	(\$1,734,724)
Funding from Prior Allocation	\$1,124,071	\$1,124,071	\$0
Funding from 2012 Capital Plan	\$32,119,538	\$33,854,262	(\$1,734,724)

Budget Variance Analysis:

The project budget represents an increase of approximately \$1.7 million from the Board approved Final Project Charter due to increased construction costs resulting from unforeseen additional renovation work and related hazardous material abatement in the existing building. This revision incorporates additional contingency for construction change orders and design fee admendements to support the project through completion.

Schedule Variance Analysis:

Resolution—6c.

COMPANY NAME:	Brockwell & Carrington Contractors, Inc.
DISTRICT:	Orange
CONTRACT NO.:	ES-0043-C01
ORIGINAL CONTRACT VALUE:	\$18,400,000.00
CM:	Epic Management, Inc.
SCHOOL NAME:	Cleveland Street Elementary School
CHANGE ORDER NO.:	5
REASON:	Change Order No. 5 Resolving Construction Change Directive (CCD No. 1) – Change in Scope For Existing Building Redesign and Increase to Allowance No. 3 Hazardous Material Abatement & Related Activities Allowance
AMOUNT:	\$1,606,814.66
CONTRACT STATUS:	10.55% Paid to Date against the Current Contract Value
ANTICIPATED OCCUPANCY DATE:	September 2021

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Resolution

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority) requires that a change order (CO) that exceeds \$500,000 singularly or, in the aggregate, is greater than 10% of the contract value, requires approval by the Members of the Authority; and

WHEREAS, SDA is advancing an addition and renovations project (Project) at the Orange Cleveland Street Elementary School, a 38,750 square foot facility educating 306 students in grades Kindergarten to 7; and

WHEREAS, the Project scope is anticipated to include an approximately 11,550 square foot addition and renovations to the existing facility to address overcrowding at that facility and will allow a change in grade alignment to Pre-K through Grade 6 consistent with the District's approved Long Range Facilities Plan (LRFP) at the Orange Cleveland Street Elementary School; and

WHEREAS, on March 6, 2019, the Board approved the Project's final charter and an award to Brockwell & Carrington Contractors, Inc. (B&C) for construction services; and

WHEREAS, prior to commencement of construction, the Project's general contractor, B&C, was contractually required to perform a constructability review in order to identify any potential conflicts in the Project documents, to confirm that existing site conditions are as represented in the contract documents, and to identify respective costs to address them; and

WHEREAS, after the SDA authorized B&C to proceed with the constructability review, but before issuance of the notice-to-proceed with construction, previously unidentified deficiencies were revealed within the existing Cleveland Street Elementary School facility after abatement and demolition work was completed at the site; and

WHEREAS, the identified conditions are not conditions that would reasonably be expected to have been revealed during the course of the constructability review; and

WHEREAS, on January 14, 2020 the SDA sought a proposal from B&C for the cost of the work associated with addressing the identified conditions; and

WHEREAS, on August 18, 2020 B&C submitted a price proposal which was reviewed and ultimately negotiated by the parties resulting in a final lump sum value of \$1,206,617.58 to address the work; and

WHEREAS, a Construction Change Directive (CCD) is a contractual mechanism reserved for use when the work at issue has been verified to be a change to the base scope and, either the work is so urgent that it requires a directive for immediate action by the General Contractor (GC), or negotiations for a CO have failed to come to a resolution, thereby placing the work in the critical path requiring immediate direction to avoid construction delays impacting a schedule milestone; and

WHEREAS, a resolving CO is the mechanism by which the final dollar value of the CCD is determined, with the combined value of the CCD and the resolving CO determining the required level of approval for the resolving CO; and

WHEREAS, to avoid impacts to the Project schedule, on August 13, 2020, management issued a \$0.00 CCD to B&C, with the result that resolving CO No. 5 is necessary to compensate B&C for the work performed pursuant to the CCD; and

WHEREAS, as set forth in the memorandum presented to the Board on this date, in addition to addressing the costs associated with the CCD, CO No. 5 will also provide the funds necessary to effect an increase to Allowance No. 3 (Hazardous Materials Abatement and Related Activities Allowance) in the amount of \$400,197.08; and

WHEREAS, approval of this CO, when aggregated with prior COs, will serve to fully deplete the contingency contained within the Final Project Charter approved by the Members in March 2019 necessitating a revision at this time; and

WHEREAS, the Project background, details regarding the constructability review process, the reason for the change and a description and summary of the changes are set forth in detail in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, as this resolving CO is for a value that exceeds \$500,000, its issuance requires Board approval; and

WHEREAS, management requests and recommends that the Members of the Authority approve the reestablishment of the Construction Contract Value for this existing engagement for the purpose of the application of ongoing Operating Authority requirements, with the reestablished value for this purpose to be the contract value inclusive of CO Nos. 1 to 5 for a total adjusted Construction Contract Value of \$20,419,311.81; and

WHEREAS, all documents supporting this resolving CO 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 staff members have determined that the items included therein are justified and the amount is reasonable and appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the Members of the Authority hereby authorize and approve Change Order No. 5 to Brockwell and Carrington Contractors, Inc. to Resolve CCD No. 1 and increase Allowance No. 3 (Hazardous Materials Abatement and Related Activities Allowance) in the total combined amount of \$1,606,814.66.

BE IT FURTHER RESOLVED, that the Members of the Authority approve the revision of the Project's Final Charter representing the project budget inclusive of dollar values for construction, appropriate contingency, allowances, SDA staff costs, other costs and prior allocation of funds for professional services to complete the project moving forward.

BE IT FURTHER RESOLVED, that the Members of the Authority approve the reestablishment of the Construction Contract Value for this existing engagement for the purpose of the application of ongoing Operating Authority requirements, with the reestablished value for this purpose to be the contract value inclusive of Change Orders No. 1 to 5 for a total adjusted Construction Contract Value of \$20,419,311.81.

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, Brockwell & Carrington Contractors, Inc, (Contract No. ES-0043-C01),
Change Order No. 5 Resolving Construction Change Directive and Revised Final Project
Charter, Cleveland Street Elementary School, Orange School District, dated October 7,
2020

Dated: October 7, 2020

**EXTENSION OF EXISTING REGULATIONS: NOTICE OF READOPTION
(WITHOUT AMENDMENTS): PROCEDURES FOR LOW-BID PROCUREMENT OF
CONSTRUCTION CONTRACT FOR SCHOOL FACILITIES PROJECTS -
N.J.A.C. 19:38**



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: October 7, 2020

RE: Extension of Existing Regulations: Notice of Readoption (without Amendments) -
Procedures For Low-Bid Procurement Of Construction Contracts For School
Facilities Projects, N.J.A.C. 19:38

On November 6, 2013 the Members of the NJSDA Board approved for final adoption regulations for Procedures For Low-Bid Procurement Of Construction Contracts For School Facilities Projects, N.J.A.C. 19:38 (“the Rules”). The Rules were formally published in the New Jersey Register on January 6, 2014 and will expire on November 8, 2020.

Management of the Authority now seeks the Members’ ratification of the filing of a Notice of Readoption to extend the expiration of the Rules. The form of Notice of Readoption is attached to this Memorandum. An executed Notice of Readoption has already been sent to the Office of Administrative Law in order to meet the statutory 30-day filing requirement, but processing of the readoption and extension will be suspended pending receipt of all required approvals and the completion of the gubernatorial veto period for any Board action taken today on the Notice.

A Notice of Readoption Without Amendments takes advantage of a statutorily-authorized 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. The 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. A full copy of the Rules is provided with this memorandum.

Chapter 38 establishes the requirements, standards, and procedures for low-bid procurement of construction contracts by the New Jersey Schools Development Authority (SDA). The rules address the prequalification requirements for bidders; the submission of a Project Rating Proposal and Price Proposal as the two components of a responsive bid; a prohibition on fraudulent statements in submissions by bidders; the evaluation of the elements of a Project Rating Proposal, including a firm's Project Evaluation ratings; the procedures and requirements for performance evaluations of contractors; the submission requirements for the Price Proposal; a requirement to bid within a firm's Aggregate Rating and Project Rating Limit; the rules for firms that submit simultaneous bids for multiple contracts; the procedures for withdrawal or substitution of bids prior to bid opening; the circumstances for declaring a bid irregular and rejection of irregular bids; procedures for protests and hearings; and procedures for contract execution.

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 which has been filed with the Office of Administrative Law, and which, upon Board approval, 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

Procedures For Low-Bid Procurement Of Construction Contracts For School Facilities

Projects

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

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

Authorized By: Manuel M. Da Silva, Chief Executive Officer, New Jersey Schools Development Authority.

Effective Date: [date], 2020.

New Expiration Date: [date], 2027.

Take notice that, in accordance with N.J.S.A. 52:14B-1, the rules at N.J.A.C. 19:38 are scheduled to expire on November 8, 2020 (absent the extension of this expiration date by the action of Executive Order 127, which extends the effect of existing regulations until thirty days after the expiration of the COVID-19 state of emergency first declared in Executive Order 103 and extended by subsequent Executive Orders). Chapter 38 establishes the requirements, standards, and procedures for low-bid procurement of construction contracts by the New Jersey Schools Development Authority (SDA).

The rules address the prequalification requirements for bidders; the submission of a Project Rating Proposal and Price Proposal as the two components of a responsive bid; a prohibition on fraudulent statements in submissions by bidders; the evaluation of the elements of a Project Rating Proposal, including a firm's Project Evaluation ratings; the procedures and requirements for performance evaluations of contractors; the submission requirements for the Price Proposal; a requirement to

bid within a firm's Aggregate Rating and Project Rating Limit; the rules for firms that submit simultaneous bids for multiple contracts; the procedures for withdrawal or substitution of bids prior to bid opening; the circumstances for declaring a bid irregular and rejection of irregular bids; procedures for protests and hearings; and procedures for contract execution.

The New Jersey Schools Development Authority is in the process of reviewing the existing rules to determine the extent of needed revisions or amendments, 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. 19:38 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. 19:38 is readopted and shall continue in effect for a seven year period.

Approved: _____
Manuel M. Da Silva
Chief Executive Officer, NJSDA

Date: August 24, 2020

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

TITLE 19. OTHER AGENCIES
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
CHAPTER 38. PROCEDURES FOR LOW-BID PROCUREMENT OF CONSTRUCTION CONTRACTS FOR
SCHOOL FACILITIES PROJECTS

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

Title 19, Chapter 38 -- 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.); and P.L. 2007, c. 137 (*N.J.S.A. 52:18A-235* et seq.) (enabling statutes).

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2014 d.001, effective November 8, 2013.

See: *45 N.J.R. 1592(a)*; *46 N.J.R. 131(a)*.

CHAPTER EXPIRATION DATE:

Chapter 38, Procedures for Low-Bid Procurement of Construction Contracts for School Facilities Projects, expires on November 8, 2020.

CHAPTER HISTORICAL NOTE:

Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was adopted as new rules by R.2006 d.193, effective May 15, 2006. See: *37 N.J.R. 3801(a)*, *37 N.J.R. 4207(a)*, *38 N.J.R. 2199(a)*.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was scheduled to expire on May 15, 2013. See: *43 N.J.R. 1203(a)*.

Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was readopted as R.2014 d.001, effective November 8, 2013. As part of R.2014 d.001, Chapter 38 was renamed Procedures for Low-Bid Procurement of Construction Contracts for School Facilities Projects, effective January 6, 2014. See: Source and Effective Date. See, also, section annotations.

§ 19:38-1.1 Applicability

This chapter applies to all construction contracts with the New Jersey Schools Development Authority, except for design-build contracts. "Design-build contract" means a written contract, entered into between a contractor and the Au-

thority, which provides both for construction services and for the performance of architectural services by an architect retained by the contractor pursuant to a separate written contract.

§ 19:38-1.2 Definitions

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

"Act" or "EFCFA" means 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.

"Agency of government" means any Federal, state, regional, county, or local government agency, in this or any other state, including any department, division, commission, authority, office, branch, section, political subdivision or other governmental or quasi-governmental entity.

"Aggregate Rating" means the limit of the outstanding dollar value of all contracts, public and private, which a firm may perform at a given time as assigned by the Authority's Notice of Prequalification in effect at the time of the contractor's bid, which shall be identical to that which is assigned by the New Jersey Department of Treasury, Division of Property Management and Construction. Should the Division of Property Management and Construction modify a firm's aggregate rating after the Authority has issued a Notice of Prequalification, the Aggregate Rating issued by the Authority is considered modified to be identical to that of the Division of Property Management and Construction.

"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.

"Bid" means the Project Rating Proposal and the Price Proposal.

"Bid advertisement" means the advertisement by the New Jersey Schools Development Authority setting forth the information as required by *N.J.S.A. 52:18A-243.h* and shall be part of the contract documents.

"Bid documents" means the bid advertisement, the project manual, general conditions, supplemental conditions, plans, specifications, scopes of work, Instructions to Bidders, addenda, form of Project Rating Proposal, form of Price Proposal, and any other documents provided to the bidder by the Authority prior to the submission of the Price Proposal.

"Contract" means the entire and integrated agreement between the firm and the New Jersey Schools Development Authority encompassing all of the contract documents.

"Contract documents" means the bid advertisement, the executed form of contract, project manual, general conditions, supplemental conditions, plans, specifications, scopes of work, Instruction to Bidders, addenda, Project Rating Proposal, Price Proposal, executed change orders, other amendments, and all exhibits, appendices and documents attached to or referenced in any of the foregoing materials.

"DPMC" means the Division of Property Management and Construction in the New Jersey Department of the Treasury.

"DPMC 27" means the request for classification form to be submitted to the DPMC by a firm seeking classification with the DPMC in accordance with the DPMC rules at *N.J.A.C. 17:19*.

"DPMC Classification" means the process and product of assigning specific construction categories or trades and the maximum Aggregate Rating which define the eligibility of firms to engage in public work as determined by the DPMC in accordance with the DPMC rules at *N.J.A.C. 17:19-1*.

"EFCFA" means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72.

"Firm" means any association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including their assignees, lessees, receivers or trustees.

"Grant funded district" means a district which receives funding for a school facilities project from the Authority pursuant to section 15 of EFCFA, *N.J.S.A. 18A:7G-15*.

"Instructions to Bidders" means that portion of the bid and contract documents setting forth the requirements and procedures for bidding on an Authority project.

"Irregular bid" means a Project Rating Proposal or a Price Proposal that does not conform to the bid and contract documents for the schools facilities package.

"Notice of DPMC Classification" means the document(s) from the DPMC notifying the Firm of the specific construction categories or trades and of the maximum Aggregate Rating for which the firm may perform work, in accordance with the DPMC rules at *N.J.A.C. 17:19*.

"Notice of Prequalification" means the letter from the Authority issuing the firm its prequalification.

"Prequalification" means the process and product of being approved by the Authority to perform work in a given trade and within a given aggregate limit on school facilities packages and grant funded projects.

"Price Proposal" means that part of the bid to be submitted by the firm setting forth the firm's bid price, including any and all information and documents required by the Instructions to Bidders, the bid advertisement or addenda.

"Project management firm" or "PMF" means the firm engaged by the Authority to provide overall construction management services, oversight, direction, coordination, and reporting in connection with school facilities projects.

"Project Rating" means the maximum amount a firm may bid on any school facilities package based upon the information contained in a firm's Project Rating Proposal.

"Project Rating Proposal" means that part of the bid to be submitted by the firm for issuance by the Authority of the Project Rating.

"Schools Construction Program" or "School Program" means the over-all program mandated by the Act for the design, renovation, repair, and new construction of primary and secondary public schools throughout the State, through the implementation of school facilities projects.

"School facilities package" or "package" means any and all of the school facilities projects that are identified in the Bid Documents.

"School facilities project" or "project" means the demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or capital maintenance, in accordance with the Department of Education's rules at *N.J.A.C. 6A:26*, of all or any part of a school facility or of any personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment. Each school facilities project that is part of the firm's work is identified in the contract documents.

"School facility" means and includes any structure, building or facility used wholly or in part by a school district for academic purposes.

"State" means the State of New Jersey, or any of the departments or agencies in the Executive Branch of government.

"Work" means the furnishing of all labor, services, materials, equipment, tools, transportation, supplies and other incidentals to be furnished, provided or performed by the firm, as required by the contract documents, including all efforts necessary or appropriate to achieve final acceptance and completion.

§ 19:38-2.1 Necessity for Prequalification

(a) Only those firms holding a valid Notice of Prequalification issued by the Authority in accordance with the procedures in *N.J.A.C. 19:38A* shall be eligible to bid for work on a school facilities package. A firm's prequalification must be valid on the due date for the submission of the Project Rating Proposal and on the due date for the submission of the Price Proposal.

(b) The Authority may establish appropriate and special prequalification requirements as may be necessary in order to ensure competitive bidding on any and all school facilities projects or as may be dictated by the unique or specialized nature of the work to be performed.

§ 19:38-3.1 Contents of the bid

(a) A bid consists of two separate proposals:

1. The first proposal is the Project Rating Proposal, which consists of information regarding the "other factors" as defined in the Act which will be evaluated by the Authority. The Authority will determine a firm's Project Rating based on this Proposal. A firm may not submit a Project Rating Proposal prior to the effective date of the firm's prequalification. If, in the prior 24-month period, a firm has been assigned a Project Rating, the firm may so indicate on the signed Project Rating Proposal submitted for each project and may request that the Authority apply the prior Project Rating to the current bid, provided that the firm certifies that there has been no change regarding safety, prevailing wage record, or its Authority Project Evaluation Record, since the prior Project Rating was assigned.

2. The second proposal is the Price Proposal which shall contain the price the firm bids for the work as well as other information and documents, as required by the contract documents. A firm may not submit a Price Proposal if it has not been assigned a Project Rating.

§ 19:38-3.2 Fraudulent statements

Any firm or individual who makes, or causes to be made, a false, deceptive or fraudulent statement in its bid or in the course of any hearing under this chapter may be disqualified from bidding, suspended and/or debarred and may be subject to prosecution pursuant to applicable law.

§ 19:38-3.3 Submission of Project Rating Proposal

(a) The Project Rating Proposal shall be delivered by the firm to the Authority at the hour, date, and place specified in the bid advertisement as may be modified by addendum. Project Rating Proposals will be accepted only from firms currently prequalified with the Authority in accordance with *N.J.A.C. 19:38A*.

(b) An irregular bid may be rejected for failure to comply with the bid and contract documents.

(c) The Authority shall examine the Project Rating Proposal and all documents required to be submitted with the Project Rating Proposal for completeness and conformity with bidding requirements. If the Authority determines that a Project Rating Proposal received for a school facility package must be rejected as being non-responsive, it shall notify the firm in writing of the rejection of its Project Rating Proposal and the reason for the rejection within 10 business days of the receipt of the Project Rating Proposal unless there are circumstances that require additional time.

§ 19:38-3.4 Calculation of the Project Rating

(a) Firms shall supply the information required for the calculation of a Project Rating in the trade for which the firm is seeking a Project Rating. The Project Rating shall be based on the following factors:

1. A check of references supplied by the firm on projects completed by the firm in the past seven years. This includes information regarding the firm's performance on other school facilities projects;

2. Information regarding the firm's safety record;

3. Information regarding the firm's prevailing wage record;

4. The firm's Authority project evaluation record; and

5. Other information deemed relevant by the Authority.

§ 19:38-3.5 Determination of Project Rating

(a) A firm's Project Rating for the trade shall be determined by the following:

$A \text{ [times] } (100\% + B + C + D) \text{ [times] } E$

where:

A = the firm's largest completed project in a specific trade listed in the Project Rating Proposal

B = the sum of the Reference Adjustment calculated pursuant to this chapter

C = the Safety Adjustment calculated pursuant this chapter

D = the Prevailing Wage Adjustment calculated pursuant to this chapter

E = the average of the firm's Project Evaluations

A firm's Project Rating for a trade cannot exceed the firm's Aggregate Rating and cannot exceed 170 percent of the firm's largest listed completed project.

(b) Reference Adjustment Calculation: A firm will be required to list in its Project Rating Proposal a minimum of two projects completed within the past seven years. The firm shall also provide project contacts for those projects. The Authority shall select, at its discretion, two projects to be confirmed and shall contact the owner's contact identified by the firm. If the Authority cannot contact an owner's contact, the Authority will contact the firm for another owner's contact for that project. If the firm is unable to provide an additional owner's contact, or if the Authority is unable to contact the additional owner's contact provided by the firm, the Authority will not use that project in the determination of the firm's Project Rating. The Authority will confirm the firm's performance on the job and assign a percentage value to the responses received. Project contacts will be asked if the performance in each of the following seven categories "exceeded expectations," "met expectations," or fell "below expectations" and the Authority will assign to the response the percentage adjustment listed below:

\$ JExceeded, Met, Below

	Expectations	Expectations	Expectations
\$ Safety	+5 percent	+3 percent	-5 percent
Quality of the construction.	+5 percent	+2 percent	-5 percent
Timeliness of the work performed.	+2 percent	+1 percent	-2 percent
Efficiency of the firm's contract administration.	+2 percent	+1 percent	-2 percent
Supervision of subcontractors.	+2 percent	+1 percent	-2 percent
Firm's level of cooperation during construction.	+2 percent	+1 percent	-2 percent
Timeliness and efficiency of punch list work corrections.	+2 percent	+1 percent	-2 percent

1. If an owner's contact rates a firm "below expectations" in either safety or quality of construction, or if the project reference adjustment is -5 or lower, the Authority will not use that project in the determination of the firm's Project Rating.

2. The Authority will total the project reference adjustments together and the sum shall be the Reference Adjustment. This Reference Adjustment shall be used as "B" in the calculation of the firm's Project Rating in (a) above.

(c) Bidders shall provide mandatory safety information as follows:

1. The firm will be required to list its most recent New Jersey Workers Compensation Insurance Experience Modification Rate (NJEMR) on its Project Rating Proposal. For any firm that has not performed work in New Jersey prior to the submission of this Project Rating Proposal, or for which the NJEMR has not been calculated, the firm will be required to submit its most recent Experience Modification Rate (EMR) for all other States for which it has performed

work. The Authority will then calculate the average of the other states' EMRs. Where appropriate, the firm's NJEMR or its average EMR as calculated by the Authority will be assigned a percentage value as listed below:

EMR is less than or equal to .80	+30 percent
EMR is greater than .80 but less than or equal to .90	+20 percent
EMR is greater than .90 but less than or equal to 1.00	+10 percent
EMR is greater than 1.00 but less than or equal to 1.10	-10 percent
EMR is greater than 1.10 but less than or equal to 1.20	-20 percent
EMR is greater than 1.20	-40 percent

2. The firm shall be required to list safety information in its Project Rating Proposal. The safety information supplied will be assigned a percentage value as listed below:

Employee of the firm completed an OSHA 500 or OSHA 502 course in last 4 years.	+2 percent	0 percent
Employee of the firm completed Council on Certification of Health, Environmental and Safety Technologists (CHEST) "Safety Trained Supervisor in Construction" course.	+2 percent	0 percent
Employee of the firm completed Associated General Contractors of America (AGCA) "Safety Management Training Course."	+2 percent	0 percent

The percentage value for the EMR and the percentage value for the Safety Information shall be added together and this total shall be the Safety Adjustment. The Safety Adjustment shall be used as "C" in the calculation of the firm's Project Rating in (a) above.

(d) Prevailing Wage: The firm will be required to list its prevailing wage record with the New Jersey Department of Labor and Workforce Development on its Project Rating Proposal. The Authority will assign a prevailing wage percentage value as listed below:

The firm has been adjudicated as having committed the following prevailing wage rate violations during the past five years:

None	0 percent
One	-10 percent
More than one	-20 percent

This percentage value shall be the Prevailing Wage Adjustment. The Prevailing Wage Adjustment shall be used as "D" in the calculation of the firm's Project Rating in (a) above.

(e) Project Evaluations: Every construction project managed by the Authority will be evaluated by two evaluators for the following: quality of work; scheduling; management; cost control and change orders; safety and industrial hygiene; subcontractors; small business goals; and close-out.

1. Evaluation rating values are:

i. Outstanding (O) or 100 percent - far exceeds the contract requirements by consistently exhibiting excellent performance. Typically meets and regularly exceeds the contract requirements;

ii. Very Good (VG) or 90 percent - often exceeds the contract requirements and frequently provides a high level of performance. Typically meets and often exceeds the contract requirements;

iii. Satisfactory (S) or 80 percent - provides an acceptable level of performance consistently meeting the contract requirements;

iv. Marginal (M) or 70 percent for scheduling, management, cost control and change orders, subcontractors, close out and 40 percent for quality of work, safety and industrial hygiene, and small business goals - performs slightly below the requirements of the contract, meeting the contract requirements on an intermittent basis; and

v. Unsatisfactory (U) or 60 percent for scheduling, management, cost control and change orders, subcontractors, close out and 20 percent for quality of work, safety and industrial hygiene, and small business goals - fails to meet important contract requirements, resulting in a negative impact on the entire project.

2. The contractor's Performance Evaluation Summary Rating shall be the mathematical average of the two evaluators' ratings. In the event that there are multiple Performance Evaluation Summary Ratings for a contractor, the contractor's Performance Evaluation Summary Rating shall be the mathematical average of all Performance Evaluation Summary Ratings.

3. The Authority will assign a Project Evaluation Performance Multiplier as listed below:

Performance Evaluation Summary Rating	Performance multiplier
80 points or higher	1.00
70 points to 79.9 points	.50
69.9 points or lower	.25

This Performance Multiplier shall be used as "E" in the calculation of the firm's Project Rating. In the event that a contractor does not have a Performance Evaluation Summary Rating, the Authority will disregard the Performance Multiplier in the calculation of the firm's Project Rating in (a) above.

§ 19:38-3.6 Submission of Price Proposal

(a) Price Proposals will be received at the time, date, and place specified in the bid advertisement as may be modified by addendum. Price Proposals will be accepted only from firms currently prequalified with the Authority and which have submitted a Project Rating Proposal in accordance with the Instructions to Bidders and this chapter.

(b) An officer or employee of the Authority will open each bid session as near to the time specified in the advertisement as is practical. The Authority representative will announce the school facilities packages on which bids are being received during that bid session. The Authority representative will then declare the bidding closed. No bids will be accepted after the bidding has been closed.

(c) The Price Proposals will be opened and total lump sum base bid prices as well as prices for any and all alternates, if applicable, will be read.

(d) Unless otherwise directed by the Authority, each Price Proposal shall be accompanied by a bid proposal bond in an amount equal to or greater than 10 percent of the bid price. Each bid bond shall reference the package to which it applies.

1. Bid bonds shall comply with the requirements of this chapter and relevant State statutes. Bid bonds covering Authority packages shall be issued only in accordance with *N.J.S.A. 2A:44-143* through 147 to the contractor and shall indicate aggregate bonding limits; by companies listed in the current United States Treasury Department Circular 570, which Circular will establish the underwriting limitation for any one risk.

2. Bid bonds shall be issued only by companies authorized to transact business in the State of New Jersey.

3. Two or more companies may underwrite the bid bond on a package if the aggregate of their underwriting limitations, as established by United States Treasury Department Circular 570, is not exceeded by the penal sum of the bid bond. Each company may limit its liability, upon the face of the bond or power of attorney form, to a definite specified amount within its underwriting limitation. Such obligation shall be executed by the principal and sureties jointly and severally.

(e) The Authority shall examine all the Price Proposals and all documents required to be submitted with the Price Proposals for completeness, conformity with requirements and mathematical accuracy. Adjustments will be made by the

Authority where necessary to establish the correct total bid amount. If the Authority determines that a Price Proposal received for a school facility package must be rejected as being non-responsive, it shall notify the firm in writing of the rejection of its Price Proposal as being non-responsive and the reason for the rejection within 10 business days of the receipt of Price Proposals, unless there are circumstances that require additional time.

(f) The submission of a Price Proposal is conclusive evidence that the firm has completely reviewed the bid and contract documents and fully understands and agrees to all of the requirements, terms and conditions set forth therein.

§ 19:38-3.7 Special Project Rating and Price Proposal requirements

With respect to *N.J.A.C. 19:38-3.5* and *3.6*, the Authority may establish appropriate and special requirements and/or waive requirements as may be necessary in order to ensure competitive bidding on any and all school facilities projects or as may be dictated by the unique and specialized nature of the work to be performed.

§ 19:38-3.8 Requirements to bid within a firm's Aggregate Rating and Project Rating

(a) A firm shall not submit a Price Proposal that exceeds its Project Rating in the trade classification required to bid the package.

(b) A firm shall not submit a Price Proposal which causes the total outstanding amount of all of its existing contracts, as defined in the Authority backlog form, both public and private, to exceed its Aggregate Rating.

(c) A firm shall include with its Price Proposal a completed Authority backlog form, which is a statement of the current value and status of its backlog of uncompleted construction work as of the Price Proposal due date and certification that the award of the subject schools facilities package will not cause the firm to exceed its Aggregate Rating.

(d) If a question arises as to whether an amount bid for a schools facilities package is within a firm's existing Project Rating or the firm's Aggregate Rating, the Price Proposal shall be opened and if the Price Proposal exceeds the firm's Project Rating or Aggregate Rating, the bid shall be rejected.

(e) A firm shall not be awarded a school facilities project that exceeds its Project Rating.

(f) A firm shall not be awarded a school facilities package which, when added to the backlog of uncompleted construction work as defined in and shown on the completed Authority's backlog form, would exceed the firm's Aggregate Rating. The backlog of uncompleted construction work shall be the total contract value of unbilled work, as evidenced by the most recent approved invoice (or other similar documentation) received by the firm before the date of the Price Proposal.

(g) If a firm successfully bids for two or more school facilities packages, which, either in combination with each other or in combination with the backlog of uncompleted construction work on other currently held contracts would exceed the firm's Aggregate Rating, the firm shall be awarded only those school facilities packages which in combination fall within the firm's Aggregate Rating as set forth in *N.J.A.C. 19:38-3.9*.

§ 19:38-3.9 Multiple bids

(a) A firm may submit multiple bids when the sum of the bids exceeds the firm's aggregate rating; however, a firm may not enter into any contracts in excess of its Aggregate Rating as set forth on the Authority's backlog form submitted with the Price Proposal. Upon receipt of multiple bids, the Authority, at its sole discretion, shall determine which contract or contracts are to be awarded to such firm within the firm's aggregate rating.

(b) If a bidder submits bids on two or more packages at the same bid session, that bidder must have a current Aggregate Rating greater than or equal to the combined amount of its bids, unless a reservation has been placed in each bid limiting the maximum gross amount of awards acceptable to the bidder at that particular bid letting. If such reservations are placed in the bids, the Authority will select which contract or contracts are to be awarded to such bidder within the maximum gross amount reserved.

§ 19:38-3.10 Withdrawal or substitution of bid prior to bid opening

A firm may withdraw a bid or substitute a bid with another by submitting a letter to the Authority prior to the bid opening. The withdrawal or substitution shall include the name of the firm, the date and time of the original Project Rating Proposal and Price Proposal, the name of a principal of the firm responsible for the action, and the action to be taken.

§ 19:38-3.11 Irregular bids

(a) Bids will be considered irregular and may be rejected for failure to comply with the bid and contract documents for reasons that may include, but are not limited to, the following:

1. If the bid is on a form other than that furnished by the Authority or if the form is altered or any part thereof is detached or incomplete;
2. If the bid is not properly signed or sealed;
3. If the bid is not typed or completed in ink;
4. If there are unauthorized additions, conditions or alternate bids, or irregularities of any kind that may tend to make the bid incomplete, indefinite, or ambiguous as to its meaning;
5. If the bid contains any provisions reserving the right to accept or reject an award, or in any way submits a contingent bid to enter into a contract pursuant to any award. The prohibition does not include a reservation limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting. However, the Authority will make the selection of which contract or contracts are to be awarded to such bidder within the maximum gross amount reserved;
6. If the bid contains any alterations to any prices or amounts that have been established by the Authority in the bid and contract documents;
7. If the Price Proposal fails to contain a price for an alternate or allowance required by the bid and contract documents;
8. If the Price Proposal is not accompanied by a bid bond as required by the bid and contract documents;
9. If the firm fails to acknowledge addenda, letters, and other notices required to be acknowledged that have been sent by the Authority or the PMF;
10. If the firm fails to name in the bid proposal identify subcontractors required to be named by the bid and contract documents;
11. If the firm submits a bid that exceeds the firm's Project Rating or its Aggregate Rating;
12. If the bidder submits a bid which exceeds its Project Rating in the trade classification to bid the package or its aggregate limit; or
13. If the Authority deems it advisable to do so in the interest of the State or the public interest.

§ 19:38-4.1 Scope and purpose

(a) This subchapter sets forth the procedures that govern challenges to an action of the Authority in the issuance of a Project Rating, in the issuance of a bid advertisement or an issuance of proposed contract documents, or to the acceptance of a Price Proposal for school facilities packages.

(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.

§ 19:38-4.2 Bid protests, hearing procedures, time limitations

(a) A challenge to the following actions of the Authority shall be made as follows:

1. Project Rating: If a firm is dissatisfied with its Project Rating, the firm must submit a written protest to the Managing Director of Procurement, setting forth all arguments, materials, or other documents that may support the protestor's position and a statement as to whether the protestor requests the opportunity for an informal hearing.

i. If the Project Rating Proposal is received by the Authority more than 10 days prior to the date for submission of the Price Proposal, the written request must be received by the Authority within five calendar days after the date of the notification of the firm's Project Rating.

ii. If the Project Rating Proposal is received by the Authority less than 10 days prior to the date for the submission of the Price Proposal, but not on the same day as the submission of the Price Proposal, the written request must be received by the Authority at least three business days prior to the date for submission of the Price Proposal.

iii. If the Project Rating Proposal is received by the Authority on the same day as the Price Proposal, the written request must be received by the Authority within five days of the receipt of both the Project Rating Proposal and the Price Proposal.

2. Bid and Contract Documents: A firm intending to submit a Price Proposal for a school facilities project and objecting to a requirement of the bid and/or contract documents must submit a written protest to the Managing Director of Procurement at least three business days prior to the opening of the Price Proposals, setting forth in detail the grounds for such protest. The protest must contain all arguments, materials, or other documents that may support the protestor's position. The Authority may disregard any protest of bid and contract documents, which is filed less than three business days prior to the scheduled Price Proposal opening or which fails to provide the specific reasons for and arguments supporting the protest.

3. Price Proposal: A firm protesting the rejection of its Price Proposal or the submission of a Price Proposal by another firm must submit a written protest to the Managing Director of Procurement setting forth the specific grounds for challenging the acceptance or rejection of the Price Proposal. The protest must contain all arguments, materials or other documents that may support the protestor's position and a statement as to whether the protestor requests the opportunity for an informal hearing. A firm protesting the rejection of its own Price Proposal must submit a written protest within five days of receipt of its rejection. A firm protesting the rejection of the submission of a Price Proposal by another firm must submit a written protest within five calendar days after the opening of the Price Proposals.

§ 19:38-4.3 Hearing procedures

(a) Hearing procedures shall be as follows:

1. The Authority, in its sole discretion, shall determine whether to grant the opportunity for an informal hearing regarding a bid protest. Informal hearings are for fact-finding purposes for the benefit of the Authority and the Authority shall have the sole discretion as to requesting or requiring a 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 waive the hearing and 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 48 hours of receipt of all documents related to said protest.

2. Informal hearings will be held, where feasible, within five calendar days of the receipt of the request. Hearings will be heard, where practicable, by an impartial hearing officer designated by the Managing Director of Procurement. The hearing officer shall issue a final written decision within 10 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 a Project Rating, the written decision will issue prior to the opening of Price Proposals for the school facilities package, which is the subject of the protest. If the decision, which is based upon a protest of the bid and contract documents, results in a modification of the bid and contract documents, such decision shall be conveyed to all potential firms by addendum.

3. In an informal hearing, the Managing Director of Procurement 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 section. In these instances, the Managing Director of Procurement shall document, for the record, the rationale for such amendment and give adequate notice to the parties involved.

§ 19:38-5.1 Contracts

(a) The Authority will send the successful firm a Notice of Award letter. The Notice of Award letter shall contain a list of the additional documents required to be submitted by the contractor with the executed contract. The Authority will specify the time within which the executed contract and required documents must be returned.

(b) Each payment and each performance bond must be in an amount at least equal to the total contract price.

1. All bonds shall comply with the requirements of this chapter and relevant State statutes. All bonds submitted by the contractor shall be issued only in accordance with *N.J.S.A. 2A:44-143* through 147 to the contractor and shall indicate aggregate bonding limits.

2. Bonds shall be issued only by companies authorized to transact business in the State of New Jersey.

3. Two or more companies may underwrite the payment and performance bonds on a project if the aggregate of their underwriting limitations, as established by United States Treasury Department Circular 570, is not exceeded by the penal sum of the bonds. Each company may limit its liability, upon the face of the bond or power of attorney form, to a definite specified amount within its underwriting limitation. Such obligations must be executed by the principal and sureties jointly and severally.

(c) If the contractor fails to return the executed contract and bonds and other required documents within the time specified by the Authority, the Authority may take whatever action is appropriate and authorized by law and by the contract documents, including, but not limited to, proceeding to recover under the bid bond.

(d) After execution by the Authority, a copy of the signed contract will be sent to the contractor.

Resolution—6d.

Extension of Existing Regulations: Notice of Readoption (without Amendments) - Procedures
For Low-Bid Procurement Of Construction Contracts For School Facilities Projects,
N.J.A.C. 19:38

Resolution

WHEREAS, N.J.S.A. 52:18A-238 (4)(k) requires that the New Jersey Schools Development Authority (SDA or the Authority) shall adopt, amend and repeal regulations to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. 2007, c. 137 (C. 52:18A-235 et al.); and

WHEREAS, on November 6, 2013 the Members of the Authority approved for final adoption regulations for Procedures For Low-Bid Procurement Of Construction Contracts For School Facilities Projects, N.J.A.C. 19:38 (the Rules); and

WHEREAS, the Rules were formally published in the New Jersey Register on November 8, 2013 and will expire on November 8, 2020; and

WHEREAS, SDA management recommends that the Members of the Authority ratify SDA's previous filing of a Notice of Re-adoption to extend the expiration of the Rules, as presented to the Board on this date, to be effective upon receipt of all required approvals including expiration of the gubernatorial veto period; and

WHEREAS, the memorandum presented to the Board on this date and incorporated herein details the prior regulatory history, sets forth the background, and provides a comprehensive description of the Rules; and

WHEREAS, the Members of the Authority have reviewed the memorandum and the Rules presented to the Board on this date; and

WHEREAS, the proposed re-adoption and extension, as presented, 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.

NOW, THEREFORE, BE IT RESOLVED, that, consistent with the memorandum presented to the Board on this date, the Members of the Authority hereby ratify the use of the Notice of Re-adoption process to effect the re-adoption and extension of the (Title 19, Chapter 38, Procedures for Low-Bid Procurement of Construction Contracts For School Facilities Projects) Rules, utilizing the Notice of Re-adoption which has been filed with the Office of Administrative Law and which, upon final approval, will be processed for publication in the New Jersey Register.

BE IT FURTHER RESOLVED, that this re-adoption and extension, as presented, will allow for further review of the existing rules, consideration of any needed amendments, and provide 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 Readoption (without Amendments) - Procedures For Low-Bid Procurement Of Construction Contracts For School Facilities Projects, N.J.A.C. 19:38, dated October 7, 2020

Dated: October 7, 2020

**EXTENSION OF EXISTING REGULATIONS: NOTICE OF READOPTION
(WITHOUT AMENDMENTS): PROCEDURES FOR PRICE AND OTHER FACTORS
PROCUREMENT OF CONSTRUCTION CONTRACTS FOR NEW SCHOOL
FACILITIES PROJECTS - N.J.A.C 19:38B**



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: October 7, 2020

RE: Extension of Existing Regulations: Notice of Readoption (without Amendments) -
Procedures For Price And Other Factors Procurement Of Construction Contracts
For New School Facilities Projects, N.J.A.C. 19:38B

On August 7, 2013 the Members of the NJSDA Board approved for final adoption regulations for Procedures For Price And Other Factors Procurement Of Construction Contracts For New School Facilities Projects, N.J.A.C. 19:38B (“the Rules”). The Rules were formally published in the New Jersey Register on October 7, 2013 and will expire on October 7, 2020.

Management of the Authority now seeks the Members’ ratification of the filing of a Notice of Readoption to extend the expiration of the Rules. The form of Notice of Readoption is attached to this Memorandum. Due to the expiration of the Rules on October 7, an executed 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.

A Notice of Readoption Without Amendments takes advantage of a statutorily-authorized 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. The 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. A full copy of the Rules is provided with this memorandum.

The Rules address the selection of a contractor whose proposal is “most advantageous” to the SDA using a price and other factors analysis authorized by statute; advertising requirements for procurements under this subchapter; prequalification requirements for bidders; the submission of a Project Rating Proposal as part of the procurement process; the advertisement of a Request for Qualifications and Request for Proposals describing the procurement process and the evaluative criteria; the composition and responsibilities of a selection committee created to evaluate participating bidders; requirements for the contractor to retain and provide access to project records; requirements for disclosure and publicity; prohibition on fraudulent statements in submissions by bidders; procedures for contract execution; procedures and requirements for performance evaluations of contractors; procedures for the substitution of key team members named in the technical proposal; and procedures for protests and hearings.

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

Procedures For Price And Other Factors Procurement Of Construction Contracts For New School Facilities Projects

Readoption: N.J.A.C. 19:38B

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

Authorized By: Manuel M. Da Silva, Chief Executive Officer, New Jersey Schools Development Authority.

Effective Date: [date], 2020.

New Expiration Date: [date], 2027.

Take notice that, in accordance with N.J.S.A. 52:14B-1, the rules at N.J.A.C. 19:38B are to expire on October 7, 2020 (absent the extension of this expiration date by the action of Executive Order 127, which extends the effect of existing regulations until thirty days after the expiration of the COVID-19 state of emergency first declared in Executive Order 103 and extended by subsequent Executive Orders). Chapter 38B establishes the requirements, standards, and procedures for “price and other factors” procurement of construction contracts by the New Jersey Schools Development Authority (SDA).

The rules address the selection of a contractor whose proposal is “most advantageous” to the SDA using a price and other factors analysis authorized by statute; advertising requirements for procurements under this subchapter; prequalification requirements for bidders; the submission of a Project Rating Proposal as part of the procurement process; the advertisement of a Request for Qualifications and Request for Proposals describing the procurement process and the evaluative

criteria; the composition and responsibilities of a selection committee created to evaluate participating bidders; requirements for the contractor to retain and provide access to project records; requirements for disclosure and publicity; prohibition on fraudulent statements in submissions by bidders; procedures for contract execution; procedures and requirements for performance evaluations of contractors; procedures for the substitution of key team members named in the technical proposal; and procedures for protests and hearings.

The New Jersey Schools Development Authority is in the process of reviewing the existing rules to determine the extent of needed revisions or amendments, 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. 19:38B 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. 19:38B is readopted and shall continue in effect for a seven year period.

Approved: _____ /s/
Manuel M. Da Silva
Chief Executive Officer, NJSDA

Date: August 21, 2020

NEW JERSEY ADMINISTRATIVE CODE
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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 38B. PROCEDURES FOR PRICE AND OTHER FACTORS PROCUREMENT OF CONSTRUCTION
CONTRACTS FOR NEW SCHOOL FACILITIES PROJECTS

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

Title 19, Chapter 38B -- 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.*); and P.L. 2007, c. 137, (*N.J.S.A. 52:18A-235 et seq.*) (enabling statutes).

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2013 d.116, effective October 7, 2013.

See: *45 N.J.R. 112(a)*, *45 N.J.R. 2263(b)*.

CHAPTER EXPIRATION DATE:

Chapter 38B, Procedures for Price and Other Factors Procurement of Construction Contracts for New School Facilities Projects, expires on October 7, 2020.

CHAPTER HISTORICAL NOTE:

Chapter 38B, Procedures for Price and Other Factors Procurement of Construction Contracts for New School Facilities Projects, was adopted as special new rules by R.2011 d.302, effective November 23, 2011. See: *43 N.J.R. 3462(a)*. Chapter 38B, Procedures for Price and Other Factors Procurement of Construction Contracts for New School Facilities Projects, expired on November 23, 2012.

Chapter 38B, Procedures for Price and Other Factors Procurement of Construction Contracts for New School Facilities Projects, was adopted as new rules by R.2013 d.116, effective October 7, 2013. See: Source and Effective Date.

§ 19:38B-1.1 Purpose and applicability of rules

(a) 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.*) (the "Act"), by establishing procedures for the procurement of contractors to permit the Authority to carry out its broad statutory mandate to plan, design and construct school facilities projects and effectively administer the Authority's schools construction program. Specifically, these rules are intended to implement the provisions of *N.J.S.A. 52:18A-243*, which authorizes the procurement of contractors through the consideration of "price and other factors."

(b) These rules provide for the Authority to award construction contracts based on the selection of a bidder whose bid proposal, conforming to the invitation to bids, is determined to be "most advantageous" to the SDA, based upon a

combination of cost and qualitative factors, with consideration given to price at least equal to the consideration given to all other factors combined, pursuant to the Authority's originating statute at *N.J.S.A. 52:18A-243*. The rules provide for a selection process that includes:

1. The public advertisement of a request for proposals (RFP) that describes the school facilities project, outlines the scope of work for the project, outlines the criteria to be used for selection and the weight that will be given to each of these criteria in the evaluation process;

2. The submission of Project Rating Proposals and the issuance of a Project Rating by the Authority; and

3. The submission of responses to the RFP which include the price proposal and the technical submittal.

(c) These rules further provide for a selection committee, comprised of representatives of the Authority and the SDA school district, to provide technical review and evaluation services, including the evaluation and scoring of technical submittals submitted in response to an RFP.

(d) Notwithstanding any provision of *N.J.A.C. 19:38* to the contrary, these rules are intended to apply to the Authority's procurement of school facilities construction contracts with a construction cost estimated to exceed \$ 5,000,000 and may be applied to other contracts at the option of the Authority. These rules are not required to be applied to the Authority's procurement of construction contracts for "emergent projects." Such "emergent projects" and addition and renovation contracts may continue to be procured pursuant to the Authority's procedures described in *N.J.A.C. 19:38*.

§ 19:38B-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, and P.L. 2007, c. 137, which authorizes the school construction program.

"Aggregate rating" means the limit of the outstanding dollar value of all contracts, public and private, which a firm may perform at a given time as assigned by the New Jersey Schools Development Authority's Notice of Prequalification in effect at the time of the contractor's bid which shall be identical to that which is assigned by the New Jersey Department of the Treasury, Division of Property Management and Construction. Should the Division of Property Management and Construction modify a firm's aggregate rating after the Authority has issued a Notice of Prequalification, the aggregate rating issued by the Authority is considered modified to be identical to that of the Division of Property Management and Construction.

"Authority" or "SDA" means the New Jersey Schools Development Authority, an entity formed pursuant to P.L. 2007, c. 137, 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.

"Best value selection" means a selection process in which consideration is given to both a price proposal and a technical proposal, and the award of the contract is based upon a combination of price and qualitative considerations.

"Bid" means the technical proposal and the price proposal.

"Bidder" or "firm" means a contractor that submits a response to a request for proposals for a construction procurement under this chapter.

"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*.

"Construction documents" means the plans, specifications and other documents which set forth in detail the design for, and other necessary requirements relating to, the construction of the school facilities project.

"Construction manager" or "CM" means the person or firm engaged by the Authority to act as the Authority's representative for the school facilities project and to provide construction management services, in connection with construction of the project.

"Contract" means the written, integrated agreement between the Authority and the contractor setting forth the obligations of the parties, including, but not limited to, the performance of work and the basis of payment. The contract includes the construction documents.

"Contract milestones" means the dates identified in the contract by which the contractor must complete certain critical activities to advance the project.

"DCA" means the New Jersey Department of Community Affairs.

"Emergency 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 and staff, as defined by *N.J.A.C. 6A:26-1.2*.

"Key team member" means an individual identified by a bidder in the response to the RFP and made part of the contract as having a responsible role in the successful completion of the school facilities project.

"New Jersey Workers' Compensation Insurance Experience Modification Rate" or "EMR" means the adjustment factor calculated by the New Jersey Compensation Rating and Inspection Bureau (NJCRIB) for each individual employer based upon the record of payrolls expended and losses incurred during a three-year experience period. It provides a method of comparing the injury record of an individual employer with the standard performance of an average employer of the same size and industry type. The EMR is used by insurers for pricing of the employer's workers' compensation insurance and adjusts the premium so as to reward or penalize the employer for the relative success of his efforts to control the frequency and severity of work injuries.

"Notice of Award" means a notice from the Authority to the bidder issued prior to award, setting forth the Authority's intention to enter into a contract with the bidder.

"Notice of Prequalification" means the letter from the Authority notifying a firm that it has secured Authority prequalification for the applicable period.

"Prequalification" means the Authority's approval of a firm to bid on Authority projects, pursuant to *N.J.A.C. 19:38A*.

"Project Rating" or "Project Rating Limit" means the maximum amount a firm may bid on any individual school facilities package based upon the information contained within a firm's Project Rating Proposal.

"Project Rating Proposal" means that part of the bidder's submittal in response to the RFP that provides the information to allow the Authority to calculate a Project Rating for the bidder.

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

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

"Request for proposals" or "RFP" means the document issued by the Authority that describes the procurement process and forms the basis for the technical submittals.

"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.

"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 bidders' submissions in response to an RFP in connection with a procurement of a contractor for a school facilities project.

"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, verifying submittal information, preparing minutes of selection committee meetings, and other similar administrative duties.

"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*.

"Specification" means a written description included as part of the construction documents setting forth the detailed technical and functional characteristics of, or the discrete design for, an item of material, equipment or work to be incorporated into the school facilities project, or a requirement of the work to be performed. A specification may include a statement of any of the Authority's requirements and may provide for inspection, testing or the preparation of a construction item before procurement. Specifications shall augment and complement the drawings and plans prepared by the Authority's design consultant.

"Submittal" means the response to a request for proposals, and may include the technical submittal or price proposals, as indicated in the text.

"Substantial completion" means that point in time in the progress of the school facilities project when certain conditions specified by the contract have occurred, including, but not limited to, the issuance of a temporary certificate of occupancy, the creation of a punch list, and the determination that the school facilities project is ready for occupancy in accordance with its intended use.

"Technical submittal" means that portion of a response to a request for proposals which documents the bidder's submission of information to address evaluation factors other than price.

"Weighted criteria process" means a form of best value selection in which a percentage of evaluation weight is pre-established for qualitative factors and for price, and the award of a contract is based upon the highest total points earned by a bidder.

"Work" means the furnishing of all labor, services, materials, equipment, tools, transportation, supplies, and other incidentals to be furnished, provided, or performed by a contractor as required by the contract documents, including all efforts necessary and appropriate to complete the construction, as described in and reasonably inferable from the construction documents and the contract.

§ 19:38B-2.1 Prequalification requirements

(a) Only those firms holding a valid Notice of Prequalification shall be eligible to submit a Project Rating Proposal and response to an RFP under this chapter. In order to be eligible, the firm's prequalification must be valid on the due date for the submission of the Project Rating Proposal, and on the due date for the submission of technical submittals and price proposals.

(b) The Authority may establish appropriate and special prequalification requirements as may be necessary in order to ensure competitive technical submittals and price proposals, or as may be dictated by the unique or specialized nature of the work to be performed under the agreement.

§ 19:38B-2.2 Advertising

(a) Advertising shall be performed 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 trade groups or professional societies; or
3. By use of direct mailings to contractors.

(b) Any advertisement shall be made in the form and in the time required to promote competition and shall describe any specific information that a bidder must submit by the date and time specified in the advertisement. The advertise-

ment shall include or describe the evaluation criteria, other than price, that shall be applied in the selection process for determining the winning bidder.

§ 19:38B-2.3 Rejection of submittals; cancellation of procurement or award

(a) Submittals received after the submission date and time prescribed in the advertisement and RFP shall be rejected.

(b) The Authority may reject any submittal 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 submittals and cancel a procurement for excessive cost, insufficient competition, insufficient funds, or any other reason, in accordance with law, that it deems to be in the public interest.

(c) The Authority may cancel a Notice of Award at any time prior to execution of an agreement by the Authority, if the Authority deems it advisable to do so in the interest of the State or the public interest.

§ 19:38B-2.4 Validity and execution of agreement

No agreement is valid or binding on the Authority unless and until it is executed by an appropriately authorized representative of the Authority.

§ 19:38B-2.5 Termination

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

§ 19:38B-2.6 Disclosure and publicity

(a) Any and all submissions made in response to an RFP are subject to the provisions of the Open Public Records Act, P.L. 2001, c. 404, *N.J.S.A. 47:1A-1* et seq., and the exceptions from disclosure provided therein.

(b) Contractors 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.

§ 19:38B-2.7 Access and record retention

(a) The contractor shall keep and maintain, and shall require all subcontracted parties to keep and maintain, those records and accounts for school facilities project activities as necessary in order to evidence compliance with the Act and all applicable regulations and contractual requirements. Such records shall be retained by the contractor for 10 years following substantial completion of a school facilities project, and any additional period required for the resolution of litigation, claims or audit findings, and shall thereafter be transferred to the Authority, unless the Authority, in its sole discretion, requests an earlier transfer of such records from the contractor to the Authority or another designated entity. At any time, upon request of the Authority, the contractor shall make records relating to the project available to the Authority, within four business days of the request for documents, and at no cost to the Authority.

(b) 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 or the performance of work under the agreement is commenced prior to expiration or termination of the agreement, all records relating to the procurement and the contract shall be retained until all litigation, claims, audit findings, document requests, and related appeals, if any, have been resolved with finality.

(c) The contractor shall provide the State Comptroller and the State Auditor all records and accounts pertaining to school facilities projects to aid the State Comptroller and the State Auditor in their investigations, examinations and

inspections of the activities related to the financing and construction of school facilities projects. The contractor shall cooperate, upon request, in sharing information with other state or Federal entities.

§ 19:38B-2.8 Fraudulent statements

Any firm or individual who makes, or causes to be made, a false, deceptive, or fraudulent statement in its submittal in response to the RFP or in its Project Rating Proposal or in the course of any hearing under this chapter may be disqualified from bidding, suspended and/or debarred and may be subject to prosecution pursuant to applicable law.

§ 19:38B-2.9 Deletion or substitution of key team members

(a) No substitutions or deletions of key team members may be made during the selection process or after award of the contract, without prior written approval from the Authority.

(b) Unauthorized changes to a bidder's key team members who were specifically identified in the response to the RFP at any time during the selection process may result in the elimination of the bidder from further consideration.

§ 19:38B-3.1 Initiation

A procurement under this chapter shall be initiated by the public advertisement of a request for proposals (RFP). The advertisement shall specify the dates for submission of responses to the RFP, including the submission of a Project Rating Proposal which shall precede the date for submission of technical submittals in response to the RFP.

§ 19:38B-3.2 Submission of Project Rating Proposal

(a) A firm must submit a Project Rating Proposal and receive a Project Rating from the Authority in order to submit a technical submittal in response to an RFP under this chapter.

(b) The Project Rating Proposal shall be delivered by the firm to the Authority at the hour, date and place specified in the bid advertisement as may be modified by addendum. Project Rating Proposals will be accepted only from firms currently prequalified with the Authority in accordance with *N.J.A.C. 19:38A*. A firm may not submit a Project Rating Proposal prior to the effective date of the firm's prequalification.

(c) The Authority shall examine the Project Rating Proposal and all documents required to be submitted with the Project Rating Proposal for completeness and conformity with bidding requirements. If the Authority determines that a Project Rating Proposal received for a school facility package must be rejected as nonresponsive, it shall notify the firm in writing of the rejection of its Project Rating Proposal and the reason for the rejection within 10 business days of the receipt of the Project Rating Proposal unless there are circumstances that require additional time.

§ 19:38B-3.3 Prior Project Rating

If, in the prior 24-month period, a firm has been assigned a Project Rating, the firm may so indicate on the signed Project Rating Proposal submitted for each project and may request that the Authority apply the prior Project Rating to the current bid, provided that the firm certifies that there has been no change regarding safety, prevailing wage record, or its Authority Project Evaluation Record since the prior Project Rating was assigned.

§ 19:38B-3.4 Calculation of the Project Rating

(a) Firms shall supply the information required for the calculation of a Project Rating in the trade for which the firm is seeking a Project Rating. The Project Rating shall be based on the following factors:

1. A check of references supplied by the firm on projects completed by the firm in the past seven years. This includes information regarding the firm's performance on other school facilities projects;
2. Information regarding the firm's safety record;
3. Information regarding the firm's prevailing wage record; and
4. Other information deemed relevant by the Authority.

§ 19:38B-3.5 Determination of Project Rating

(a) A firm's Project Rating for a particular trade shall be determined in accordance with the following formula:

$$A \text{ [times] } (100\% + B + C + D)$$

where:

- A = the firm's largest completed project in a specific trade listed in the Project Rating Proposal;
- B = the sum of the Reference Adjustment calculated pursuant to this chapter;
- C = the Safety Adjustment calculated pursuant to this chapter; and
- D = the Prevailing Wage Adjustment calculated pursuant to this chapter.

(b) The Project Rating assigned for procurements under this chapter shall not include consideration of the firm's prior Authority Project Evaluations, or calculation of a Performance Evaluation Multiplier.

(c) A firm's Project Rating for a trade cannot exceed the firm's Aggregate Rating and cannot exceed 170 percent of the firm's largest listed completed project.

§ 19:38B-3.6 Reference adjustment calculation

(a) A firm will be required to list in its Project Rating Proposal a minimum of two projects completed within the past seven years. The firm shall also provide project contacts for those projects. The Authority shall select, at its discretion, two projects to be confirmed and shall contact the owner's contact identified by the firm. If the Authority cannot contact an owner's contact, the Authority will contact the firm so that the firm may identify another owner's contact for that project. If the firm is unable to provide an additional owner's contact, or if the Authority is unable to contact the additional owner's contact provided by the firm, the Authority will not use that project in the determination of the firm's Project Rating.

(b) The Authority will confirm the firm's performance on each project referenced and assign a percentage value to the responses received. Project contacts will be asked if the performance in each of the following seven categories "exceeded expectations," "met expectations," or fell "below expectations" and the Authority will assign to the response the percentage adjustment listed below:

EXPECTATIONS	Exceeded Expectations	Met Expectations	Below Expectations
Safety	+5 percent	+3 percent	-5 percent
Quality of the construction.	+5 percent	+2 percent	-5 percent
Timeliness of the work performed.	+2 percent	+1 percent	-2 percent
Efficiency of the firm's contract administration.	+2 percent	+1 percent	-2 percent
Supervision of subcontractors.	+2 percent	+1 percent	-2 percent
Firm's level of cooperation during	+2 percent	+1 percent	-2 percent

construction.			
Timeliness and efficiency of punch list work corrections.	+2 percent	+1 percent	-2 percent

1. If an owner's contact rates a firm "below expectations" in either safety or quality of construction, or if the project reference adjustment is -5 or lower, the Authority will not use that project in the determination of the firm's Project Rating.

2. The Authority will total the project reference adjustments together and the sum shall be the reference adjustment. This reference adjustment shall be used as "B" in the calculation of the firm's Project Rating in *N.J.A.C. 19:38B-3.5*.

§ 19:38B-3.7 Safety adjustment calculation

(a) Bidders shall provide mandatory safety information as follows:

1. The firm will be required to list its most recent New Jersey Workers Compensation Insurance Experience Modification Rate (NJEMR) on its Project Rating Proposal. For any firm that has not performed work in New Jersey prior to the submission of this Project Rating Proposal, or for which the NJEMR has not been calculated, the firm will be required to submit its most recent Experience Modification Rate (EMR) for all other states for which it has performed work. The Authority will then calculate the average of the other states' EMRs. Where appropriate, the firm's NJEMR or its average EMR as calculated by the Authority will be assigned a percentage value as listed below:

EMR is less than or equal to .80	+30 percent
EMR is greater than .80 but less than or equal to .90	+20 percent
EMR is greater than .90 but less than or equal to 1.00	+10 percent
EMR is greater than 1.00 but less than or equal to 1.10	-10 percent
EMR is greater than 1.10 but less than or equal to 1.20	-20 percent
EMR is greater than 1.20	-40 percent

2. The firm shall be required to list safety information in its Project Rating Proposal. The safety information supplied will be assigned a percentage value as listed below:

	Yes	No
Employee of the firm completed an OSHA 500 or OSHA 502 course in last four years.	+2 percent	0 percent
Employee of the firm completed Council on Certification of Health, Environmental and Safety Technologists (CCHESST) "Safety Trained Supervisor in Construction" course.	+2 percent	0 percent
Employee of the firm completed Associated General Contractors of America (AGCA) "Safety Management Training Course."	+2 percent	0 percent

The percentage value for the EMR and the percentage value for the safety information shall be added together and this total shall be the safety adjustment. The safety adjustment shall be used as "C" in the calculation of the firm's Project Rating in *N.J.A.C. 19:38B-3.5*.

§ 19:38B-3.8 Prevailing wage adjustment calculation

(a) The firm will be required to list in its Project Rating Proposal its prevailing wage violations issued by the New Jersey Department of Labor and Workforce Development for the previous five years.

(b) The Authority will calculate a prevailing wage adjustment by applying the following percentage values in accordance with whether the firm has been adjudicated as having committed one or more prevailing wage rate violations during the past five years:

None	0 percent
One	-10 percent
More than one	-20 percent

This percentage value shall be the prevailing wage adjustment. The prevailing wage adjustment shall be used as "D" in the calculation of the firm's Project Rating in *N.J.A.C. 19:38B-3.5*.

§ 19:38B-4.1 Request for proposals

(a) The RFP shall include, but shall not be limited to:

1. A general description of the school facilities project;
2. The scope of work;
3. The minimum qualification requirements for bidders, including, but not limited to, the appropriate classifications and aggregate rating limits assigned by the New Jersey Department of the Treasury, Division of Property Management and Construction;
4. The plans and specifications for the project;
5. Technical submittal and price proposal forms;
6. The form of contract;
7. The instructions and requirements for preparing a response to the RFP;
8. The criteria for evaluation of submittals and price proposals and the relative weight of each criterion;
9. Budget limits for the project;
10. Requirements for bid bonds, performance bonds, payment bonds and insurance;
11. Schedule requirements in the form of major contract milestones to be achieved; and
12. The documents required to be submitted upon the notice of award, pursuant to (b) below.

(b) The RFP shall require the initial submission of a Project Rating Proposal, followed by the concurrent submission of a technical submittal and a separate price proposal. The technical submittal and price proposal shall be evaluated separately, in accordance with the evaluation factors and process set forth in the RFP.

(c) The RFP shall specify the date, place, and time for the submission of the Project Rating Proposal, the technical submittal, and price proposal to the Authority.

(d) The Authority may provide for a pre-proposal conference at which bidders may ask questions and seek clarification of the information, data or documents contained within the RFP. The RFP will provide the date, time, and location for all conferences, and shall indicate if the conference is mandatory for all bidders.

(e) Site visits and interviews may be scheduled as part of the evaluation process. The RFP shall indicate if a site visit and/or interview is mandatory.

(f) A bidder's submission of a technical submittal and price proposal evidences the bidder's complete review of the RFP and all associated documents and full understanding of, and agreement with, all of the requirements, terms, and conditions set forth therein.

§ 19:38B-4.2 RFP evaluation criteria

(a) The RFP phase of the procurement process may include, without limitation, consideration of the following factors, in addition to the consideration of price:

1. The bidder's experience on identified projects of similar size, scope and complexity;
2. The experience of the bidder's key team members on projects of similar size, scope and complexity;
3. The bidder's prior performance on projects for the Authority, as evidenced by performance evaluations as specified in the RFP;
4. The bidder's concurrent commitment of staff and resources to other projects, and the bidder's ability to fulfill the contract as affected by the commitment of staff and resources to another contract with the Authority, or to contracts with any other public or private entity;
5. The prior affirmative action experience of the prospective bidder;
6. Consideration of the bidder's aggregate rating from the Department of the Treasury, Division of Property Management and Construction, which is affected by prior affirmative action experience;
7. Consideration of the bidder's staffing capabilities, such as the bidder's plan for staffing the project (distinguishing between self-performed and subcontracted work), including recruitment methods and proposed sources of supply for skilled labor;
8. The bidder's history and experience with respect to conformance to project schedules on similar projects, including timely completion of punch list items;
9. The bidder's project safety record including Occupational Safety and Health Administration (OSHA) violations and/or penalties;
10. The bidder's history of or experience with assertion of claims or requests for adjustment of compensation on similar projects, and the results of such claims or requests;
11. The bidder's history of cure notices on projects of similar size or complexity;
12. The bidder's experience with payment of, or liability for, liquidated damages on projects of similar size and complexity;
13. The bidder's history with respect to timely payment of subcontractors; and
14. Any other pertinent information necessary to establish the qualifications of the prospective bidder to undertake the contract.

§ 19:38B-5.1 Selection coordinator

Prior to the advertisement of the RFP, the Authority will select a member of staff to serve as selection coordinator for the procurement, who shall be responsible for scheduling of meetings, preparing agendas, recording scores, verifying submittal information, preparing minutes of selection committee meetings, and other similar administrative duties.

§ 19:38B-5.2 Composition and responsibilities of selection committee

(a) Prior to the receipt of responses to the RFP, the Authority shall establish a selection committee to review and evaluate submissions received in response to a procurement under this chapter. Each member of a selection committee shall have the relevant experience as set forth in *N.J.S.A. 52:34-10.3(c)*, necessary to evaluate the submissions.

(b) The members of the selection committee shall consist of a majority of Authority representatives and, if the SDA school district in which the school facilities project is located elects to participate in the selection process, a representative of the SDA school district, pursuant to *N.J.S.A. 52:18A-243g*.

(c) Each member of the selection committee shall be responsible for evaluating and scoring the technical submittals in accordance with the weighted criteria process set forth in the RFP.

(d) Once the responses are received and the identity of the bidders is ascertained, the members of the selection committee will be notified of the identity of all firms that submitted a bid. Each member of the selection committee, prior to the evaluation of any submission, shall execute a certification that he or she has no personal interest, financial or familial, in any of the bidders 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 bidders is revealed, that member shall not serve on the selection committee and may be replaced.

(e) 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)*.

§ 19:38B-5.3 Evaluation of additional materials or additional considerations

(a) In addition to the selection committee's review of written responses to the RFP, the selection evaluation process may include:

1. Evaluation of bidders' participation in interviews; and
2. Evaluation of any other components of the evaluation process determined, in the sole discretion of the Authority, to be appropriate.

(b) The Authority shall examine all submittals for completeness and conformity with the requirements of the RFP. If the Authority determines that a submittal must be rejected as non-responsive, it shall notify the bidder in writing of the rejection of its submittal and the reason for the rejection within 10 business days of receipt of the submittal, unless there are circumstances that require additional time.

(c) The members of the selection committee shall individually and independently evaluate each bidder's technical submittal, and performance and participation in interviews and other specified elements of the technical submission. Each member of the selection committee shall assign scores to the submittals, in accordance with the evaluation criteria and relative weights specified for each criterion, as set forth in the RFP. The members of the selection committee shall then submit their scores for each technical submittal to the selection coordinator.

(d) The selection coordinator shall compile the evaluation scores of the committee members for the technical submittals in accordance with the procedures outlined in the RFP.

§ 19:38B-6.1 Submission of price proposal

(a) The price proposal shall be submitted with the technical submittal in a separate sealed envelope and shall document the bidder's price for construction of the school facilities project, in accordance with the requirements of the RFP. The envelope shall indicate clearly that it is the price proposal and shall identify the bidder's name, project number, and any other information required by the RFP. The price proposals shall remain sealed throughout the technical submittal evaluation process until the time for opening of price proposals as indicated in the RFP, and as modified by addendum.

(b) Each price proposal shall be accompanied by an Uncompleted Contracts Form, executed by the bidder, which is a statement of the current value and status of the bidder's backlog of uncompleted construction work as of the price proposal due date, and which includes a certification that, if the bidder is awarded the contract for the construction of the schools facility project that is the subject of the procurement, the award will not cause the bidder to exceed its aggregate rating. The backlog of uncompleted construction work shall be the total contract value of unbilled work, as evidenced by the most recent approved invoice (or other similar documentation) received by the firm before the date of the submission of the price proposal. A bidder shall not submit a price proposal that causes the total outstanding amount of all of its existing contracts, both public and private as described in the Uncompleted Contracts Form, to exceed its aggregate rating. A bidder shall not be awarded a school facilities package which, when added to the backlog of uncompleted construction work as defined in and shown on the executed Authority backlog form, would exceed the bidder's aggregate rating. Nor may a bidder submit, or the Authority award a contract based on, a price proposal that names a subcontractor whose aggregate rating would exceed the subcontractor's aggregate rating, if the subcontractor's contract

for the school facilities package at issue were added to the subcontractor's existing backlog of uncompleted work. The same bidder may submit multiple bids to the Authority for several procurements, meaning bids for consideration on separate projects being procured concurrently, when the sum of the outstanding bids exceeds the firm's aggregate rating; however, a firm may not enter into any contracts in excess of its aggregate rating as set forth on the Authority's Uncompleted Contracts Form submitted with the price proposal. Upon receipt of multiple bids from a bidder, the Authority, at its sole discretion, shall determine which contract or contracts are to be awarded to such firm within the firm's aggregate rating. If a firm successfully bids for two or more school facilities packages, which, either in combination with each other or in combination with the bidder's backlog of uncompleted construction work on other currently held contracts, would exceed the bidder's aggregate rating, the firm shall be awarded only those school facilities packages which in combination fall within the firm's aggregate rating as set forth in *N.J.A.C. 19:38-3.9*.

(c) Each price proposal shall be accompanied by a bid bond in the form and amount specified in the RFP. Bid bonds shall comply with the requirements of this chapter and with relevant State statutes.

1. Each bid bond shall reference the procurement package to which it applies.
2. Bid bonds covering Authority procurement packages shall be issued only in accordance with *N.J.S.A. 2A:44-143* through 147.
3. Bid bonds shall be issued to the contractor, and shall indicate aggregate bonding limits.
4. Bid bonds shall be issued by companies listed in the current United States Treasury Department Circular 570, which Circular will establish the underwriting limitation for any one risk.
5. Bid bonds shall be issued only by companies authorized to transact business in the State of New Jersey.

§ 19:38B-6.2 Evaluation of price proposal and selection of awardee

(a) Prior to the advertisement of the RFP, the Authority shall establish the maximum point score for the lowest responsive price proposal. All other price proposals greater than the lowest responsive price proposal will be assigned scores based upon the percentage that the proposal exceeds the lowest responsive price proposal.

(b) The price proposals shall be opened and examined for completeness and conformity with the requirements of the RFP. The bidder shall show all bid amounts in both words and figures. In the event of a discrepancy between the words and figures, the amount shown in words shall govern. A price proposal deemed non-responsive will be rejected and the bidder will be notified in writing of the rejection within five business days of the opening of price proposals, unless there are circumstances that require additional time.

1. Where unit prices are requested, in the event of a discrepancy between the unit price bid for any scheduled bid item and the extension shown for that item under the column of the Price Proposal Form designated "Bid Amount," the unit price is to govern. Where a unit price is bid, but no extension is provided, the SDA will provide the extension based on the unit price bid and the estimated quantity for the bid item.

2. Where an extension is provided in the "Bid Amount" column, but no unit price appears in the "Unit Price" column of the Price Proposal Form, the SDA will provide the unit price by dividing their "Bid Amount" figure provided by the bidder by the estimated quantity.

(c) The selection coordinator shall assign the maximum price points to the lowest responsive total dollar proposal. All other responsive proposals shall be scored based upon the percentage that each proposal exceeds the lowest proposal.

(d) The selection coordinator shall determine the combined scores for each bidder based on their technical and price proposals, with consideration of price at least equal to the consideration given to all other factors. The bidder with the highest overall score shall be recommended to the Board of the Authority for an award. All recommendations for award are subject to the approval of the Board. Following Board approval, the Authority will issue a written notice of award to the successful bidder.

§ 19:38B-6.3 Withdrawal of price proposal

A bidder may withdraw a price proposal or substitute a price proposal with another by submitting a letter to the Authority prior to the deadline for submission of price proposals. The withdrawal or substitution shall include the bidder's name, the date and time of the submission of the original price proposal, the name of a principal of the firm responsible for the withdrawal or substitution, and the requested action to be taken.

§ 19:38B-7.1 Contract approval and execution

(a) Upon approval of a recommendation for award by the Board, the Authority shall issue a Notice of Award letter to the bidder. The Notice of Award is not binding on the Authority until the Authority has executed the contract, and the Notice of Award does not authorize the commencement of work under the contract. No person shall perform any work in furtherance of the contract unless and until the Authority executes the contract and issues a Notice to Proceed.

(b) The Notice of Award letter shall contain a list of the additional documents required to be submitted by the bidder with the executed contract, including the requirements for payment and performance bonds. The Notice of Award will specify the time within which the bidder must submit to the Authority the executed contract and other documents required by the Notice of Award. Within the time period specified in the Notice of Award, the bidder shall properly and duly execute the contract and deliver to the Authority the executed contract, as well as performance and payment bonds and all other documents required by the RFP or the Notice of Award letter.

(c) Each payment and each performance bond must be in an amount at least equal to the total contract price.

1. All bonds shall comply with the requirements of this chapter and relevant State statutes. All bonds submitted by the bidder shall be issued only to the bidder, and shall conform to the provisions of *N.J.S.A. 2A:44-143* through 147 and shall indicate aggregate bonding limits.

2. Bonds shall be issued only by companies authorized to transact business in the State of New Jersey.

(d) If the bidder fails to return the required documents within the time specified by the Authority, the Authority may take whatever action is appropriate and authorized by law including, but not limited to, withdrawing or cancelling the notice of award to the delinquent bidder and awarding the contract to the next-highest ranked bidder, cancelling the procurement or proceeding to recover under the bid bond submitted.

(e) Upon the successful contractor'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 contractor with a fully-executed agreement.

§ 19:38B-8.1 Applicability and effect

(a) Notwithstanding any provisions of *N.J.A.C. 19:38* to the contrary, the following provisions will apply to the process and consideration of performance evaluations for contracts procured under this chapter.

1. Every contractor awarded a construction contract procured pursuant to this chapter will be subject to evaluation in accordance with *N.J.S.A. 18A:7G-36*. The performance evaluation will consider the contractor's performance in the following categories: quality of work; scheduling; management; cost control and change orders; safety and industrial hygiene; small business goals; and close-out.

2. The contractor's performance will be evaluated periodically during the progress of the project. The evaluation will be performed by a reviewer with direct involvement in the management or supervision for the project.

3. The contractor's performance evaluations will be used by the Authority in evaluating and scoring bidders as to their prior experience on Authority projects, in accordance with the provisions of this chapter or *N.J.A.C. 19:38*.

§ 19:38B-8.2 Evaluation rating values

(a) Notwithstanding any provisions of *N.J.A.C. 19:38* to the contrary, contractors shall be evaluated with respect to the various evaluation categories using the following evaluation ratings:

1. Outstanding (O) or 100 percent--far exceeds the contract requirements by consistently exhibiting excellent performance. Always meets, and almost always exceeds the contract requirements;
2. Very Good (VG) or 90 percent--often exceeds the contract requirements and frequently provides a high level of performance. Typically meets and often exceeds the contract requirements;
3. Satisfactory (S) or 80 percent--provides an acceptable level of performance consistently meeting the contract requirements;
4. Marginal (M) or 70 percent--performs slightly below the requirements of the contract, meeting the contract requirements on an intermittent basis; and
5. Unsatisfactory (U) or 60 percent--fails to meet important contract requirements, resulting in a negative impact on the entire project.

(b) The numerical scores in (a) above may be subject to special adjustment factors for certain categories deemed by the Authority to be particularly critical to contractor performance. The numerical ratings for each category shall be tabulated to arrive at an overall numerical evaluation score for each performance evaluation.

§ 19:38B-8.3 Consideration of performance evaluations

(a) For contracts procured pursuant to the provisions of *N.J.A.C. 19:38*, performance evaluations shall be considered in accordance with that chapter.

(b) For contracts procured pursuant to this chapter, the process for evaluating a contractor's prior performance on Authority projects in a selection process shall be specified in the RFP. Such process may consist of:

1. A mathematical tabulation and averaging of the scores of all prior performance evaluations within a relevant time period;
2. Consideration of particularly favorable or unfavorable evaluations individually and with reference to other evaluations;
3. Consideration of multiple evaluations over the course of a given project, to show consistency of performance, deterioration of performance or efforts at improvement and recovery; or
4. A combination of the methodologies in (b)1 through 3 above.

§ 19:38B-9.1 Scope and purpose

(a) This subchapter sets forth the procedures that govern protests of the Authority's decisions with respect to procurements under this chapter, including challenges to the form of the RFP, the evaluation and scoring of bidders' technical proposals, and the award of contracts.

(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.

§ 19:38B-9.2 Protests, hearing procedures, and time limitations

(a) A challenge to the following actions of the Authority shall be made as follows:

1. Project Rating limit: A bidder that has submitted or that intends to submit a Project Rating Proposal, and that objects to the Project Rating process or documents, must submit a written protest to the Authority, setting forth in detail the grounds for such protest, within five business days of receipt of notification of the Authority's assignment of a Project Rating or notification of rejection of the bidder's Project Rating Proposal. The protest must contain all factual and legal arguments, materials or other documents that support the protestor's position, and must indicate whether the protester requests an informal hearing. The Authority may deny any protest that is filed more than five business days after

notification of assignment of the Project Rating or notification of rejection of the Project Rating Proposal, or that fails to provide the specific reasons for and arguments supporting the protest.

2. RFP process or documents: A bidder that has submitted or that intends to submit proposals in response to the RFP, and that objects to the RFP process or documents, must submit a written protest to the Authority at least three business days prior to the opening of the technical proposals, setting forth in detail the grounds for such protest. 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 three business days prior to the scheduled opening of technical proposals, or that fails to provide the specific reasons for and arguments supporting the protest.

3. Technical and price proposal scoring: A bidder protesting the scoring of its technical and/or price proposals, or those of another bidder, must submit a written protest to the Authority setting forth the specific grounds for challenging such scorings. 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 protest must be submitted in writing, within five business days of the public advertisement of the bidders' scores. The Authority may deny any such protest that is filed more than five business days after the public advertisement of the bidder's scores, or that fails to provide the specific reasons for and arguments supporting the protest.

4. Performance evaluation: A contractor 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 must indicate whether the protestor requests an informal hearing. The Authority may deny any protest that is filed more than 15 calendar days after the contractor'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.

§ 19:38B-9.3 Hearing procedures

(a) Hearing procedures shall be as follows:

1. The Authority, in its sole discretion, shall determine whether to grant the opportunity for an informal hearing regarding a protest. Informal hearings are for fact-finding purposes for the benefit of the Authority and the Authority shall have the sole discretion 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 waive the hearing and 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 period is required. For all protests of the RFP processes and documents, the written decision will issue prior to the opening of statements of qualification or proposals, respectively. If a decision based upon a protest results in a modification of the aforesaid process or documents, such decision shall be conveyed to all eligible bidders by addendum.

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 section. 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., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*, 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—6e.

Extension of Existing Regulations: Notice of Re-adoption (without Amendments)
 Procedures For Price And Other Factors Procurement Of Construction Contracts For New
 School Facilities Projects, N.J.A.C. 19:38B

Resolution

WHEREAS, N.J.S.A. 52:18A-238 (4)(k) requires that the New Jersey Schools Development Authority (SDA or the Authority) shall adopt, amend and repeal regulations to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. 2007, c. 137 (C. 52:18A-235 et al.); and

WHEREAS, on August 7, 2013 the Members of the SDA Board approved for final adoption regulations to establish Procedures For Price And Other Factors Procurement Of Construction Contracts For New School Facilities Projects, N.J.A.C. 19:38B (the Rules); and

WHEREAS, the Rules establish requirements, standards and procedures for the SDA’s procurement of construction contracts on a “price and other factors” basis for “new construction” projects in the Authority’s capital program; and

WHEREAS, the Rules were formally published in the New Jersey Register on October 7, 2013 and are due to expire on October 7, 2020; and

WHEREAS, SDA management sent an executed Notice of Re-adoption to the Office of Administrative Law to extend the expiration of the Rules, but processing of the re-adoption and extension is suspended pending the Board’s ratification of the Notice; and

WHEREAS, SDA management now requests and recommends that the Members of the Authority ratify management’s filing of the Notice of Re-adoption as presented to the Board on this date; and

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

WHEREAS, the background of the Rules, a description of the Notice of Re-adoption process and the basis for its utilization in connection with the Rules is fully set forth in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, executive management and associated program staff recommend that the Members ratify the use of the Notice of Re-adoption process to effect the re-adoption and extension of N.J.A.C. 19:38B, Procedures for Price and Other Factors Procurement of Construction Contracts for School Facilities Projects, utilizing the Notice of Re-adoption filed with the Office of Administrative Law, which, upon ratification, will be processed for publication in the New Jersey Register.

NOW, THEREFORE, BE IT RESOLVED, that the Members of the Authority hereby ratify the use of the Notice of Re-adoption process to effect the re-adoption and extension of N.J.A.C. 19:38B, Procedures for Price and Other Factors Procurement of Construction Contracts for School Facilities Projects utilizing the 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 this re-adoption and extension will permit further review of the existing rules, consideration of any needed amendments, and provide 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) - Procedures For Price And Other Factors Procurement Of Construction Contracts For New School Facilities Projects, N.J.A.C. 19:38B, dated October 7, 2020

Dated: October 7, 2020

**EXTENSION OF EXISTING REGULATIONS: NOTICE OF READOPTION
(WITHOUT AMENDMENTS): PROCEDURES FOR PREQUALIFICATION OF
CONTRACTORS AND PROFESSIONAL SERVICES CONSULTANTS FOR THE NEW
JERSEY SCHOOLS CONSTRUCTION PROGRAM - N.J.A.C. 19:38A**



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: October 7, 2020

RE: Extension of Existing Regulations: Notice of Readoption (without Amendments) -
Procedures for Prequalification of Contractors and Professional Services
Consultants for the New Jersey Schools Construction Program, N.J.A.C. 19:38A

On November 6, 2013 the Members of the NJSDA Board approved for final adoption regulations for Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Program, N.J.A.C. 19:38A ("the Rules"). The Rules were formally published in the New Jersey Register on January 6, 2014 and will expire on November 8, 2020.

Management of the Authority now seeks the Members' ratification of the filing of a Notice of Readoption to extend the expiration of the Rules. The form of Notice of Readoption is attached to this Memorandum. An executed Notice of Readoption has already been sent to the Office of Administrative Law in order to meet the statutory 30-day filing requirement, but processing of the readoption and extension will be suspended pending receipt of all required approvals and the completion of the gubernatorial veto period for any Board action taken today on the Notice.

A Notice of Readoption Without Amendments takes advantage of a statutorily-authorized 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. The 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. A full copy of the Rules is provided with this memorandum.

Chapter 38A establishes the requirements, standards, and procedures for prequalification of construction contractors and professional services consultants, in order to be eligible to bid on, or receive awards for, contractual engagements offered by the New Jersey Schools Development Authority (SDA). The rules implement statutory provisions at N.J.S.A. 18A:7G-33 through -35 (regarding contractor prequalification) and N.J.S.A. 52:34-9.3 (regarding consultant prequalification), and are intended to insure that only qualified contractors and professional services consultants possessing the requisite moral integrity are permitted to engage in providing construction, professional services, and other goods and services for school facilities projects. The rules address the procedures for prequalification of contractors, subcontractors, professional services consultants and subconsultants seeking to participate in school facilities projects, and further set forth the requirements and standards for prequalification, grounds for denial or revocation of prequalification, and protest and appeal procedures for the prequalification process.

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 which has been filed with the Office of Administrative Law, and which, upon Board approval, 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

Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Program

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

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

Authorized By: Manuel M. Da Silva, Chief Executive Officer, New Jersey Schools Development Authority.

Effective Date: [date], 2020.

New Expiration Date: [date], 2027.

Take notice that, in accordance with N.J.S.A. 52:14B-1, the rules at N.J.A.C. 19:38A are to expire on November 8, 2020 (absent the extension of this expiration date by the action of Executive Order 127, which extends the effect of existing regulations until thirty days after the expiration of the COVID-19 state of emergency first declared in Executive Order 103 and extended by subsequent Executive Orders). Chapter 38A establishes the requirements, standards, and procedures for prequalification of construction contractors and professional services consultants, in order to be eligible to bid on, or receive awards for, contractual engagements offered by the New Jersey Schools Development Authority (SDA). The rules implement statutory provisions at N.J.S.A. 18A:7G-33 through -35 (regarding contractor prequalification) and N.J.S.A. 52:34-9.3 (regarding consultant prequalification), and are intended to insure that only qualified contractors and professional services consultants possessing the requisite moral integrity are permitted to engage

in providing construction, professional services, and other goods and services for school facilities projects.

The rules address the procedures for prequalification of contractors, subcontractors, professional services consultants and subconsultants seeking to participate in school facilities projects, and further set forth the requirements and standards for prequalification, grounds for denial or revocation of prequalification, and protest and appeal procedures for the prequalification process. The New Jersey Schools Development Authority is in the process of reviewing the existing rules to determine the extent of needed revisions or amendments, 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. 19:38A 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. 19:38A is readopted and shall continue in effect for a seven year period.

Approved: _____
Manuel M. Da Silva
Chief Executive Officer, NJSDA

Date: August ____, 2020

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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 38. PROCEDURES FOR LOW-BID PROCUREMENT OF CONSTRUCTION CONTRACTS FOR
SCHOOL FACILITIES PROJECTS

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

Title 19, Chapter 38 -- 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.); and P.L. 2007, c. 137 (*N.J.S.A. 52:18A-235* et seq.) (enabling statutes).

CHAPTER SOURCE AND EFFECTIVE DATE:

R.2014 d.001, effective November 8, 2013.

See: *45 N.J.R. 1592(a)*; *46 N.J.R. 131(a)*.

CHAPTER EXPIRATION DATE:

Chapter 38, Procedures for Low-Bid Procurement of Construction Contracts for School Facilities Projects, expires on November 8, 2020.

CHAPTER HISTORICAL NOTE:

Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was adopted as new rules by R.2006 d.193, effective May 15, 2006. See: *37 N.J.R. 3801(a)*, *37 N.J.R. 4207(a)*, *38 N.J.R. 2199(a)*.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was scheduled to expire on May 15, 2013. See: *43 N.J.R. 1203(a)*.

Chapter 38, Procedures for Bidding for the New Jersey Schools Construction Corporation's School Facilities Projects for the Schools Construction Program, was readopted as R.2014 d.001, effective November 8, 2013. As part of R.2014 d.001, Chapter 38 was renamed Procedures for Low-Bid Procurement of Construction Contracts for School Facilities Projects, effective January 6, 2014. See: Source and Effective Date. See, also, section annotations.

§ 19:38-1.1 Applicability

This chapter applies to all construction contracts with the New Jersey Schools Development Authority, except for design-build contracts. "Design-build contract" means a written contract, entered into between a contractor and the Au-

thority, which provides both for construction services and for the performance of architectural services by an architect retained by the contractor pursuant to a separate written contract.

§ 19:38-1.2 Definitions

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

"Act" or "EFCFA" means 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.

"Agency of government" means any Federal, state, regional, county, or local government agency, in this or any other state, including any department, division, commission, authority, office, branch, section, political subdivision or other governmental or quasi-governmental entity.

"Aggregate Rating" means the limit of the outstanding dollar value of all contracts, public and private, which a firm may perform at a given time as assigned by the Authority's Notice of Prequalification in effect at the time of the contractor's bid, which shall be identical to that which is assigned by the New Jersey Department of Treasury, Division of Property Management and Construction. Should the Division of Property Management and Construction modify a firm's aggregate rating after the Authority has issued a Notice of Prequalification, the Aggregate Rating issued by the Authority is considered modified to be identical to that of the Division of Property Management and Construction.

"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.

"Bid" means the Project Rating Proposal and the Price Proposal.

"Bid advertisement" means the advertisement by the New Jersey Schools Development Authority setting forth the information as required by *N.J.S.A. 52:18A-243.h* and shall be part of the contract documents.

"Bid documents" means the bid advertisement, the project manual, general conditions, supplemental conditions, plans, specifications, scopes of work, Instructions to Bidders, addenda, form of Project Rating Proposal, form of Price Proposal, and any other documents provided to the bidder by the Authority prior to the submission of the Price Proposal.

"Contract" means the entire and integrated agreement between the firm and the New Jersey Schools Development Authority encompassing all of the contract documents.

"Contract documents" means the bid advertisement, the executed form of contract, project manual, general conditions, supplemental conditions, plans, specifications, scopes of work, Instruction to Bidders, addenda, Project Rating Proposal, Price Proposal, executed change orders, other amendments, and all exhibits, appendices and documents attached to or referenced in any of the foregoing materials.

"DPMC" means the Division of Property Management and Construction in the New Jersey Department of the Treasury.

"DPMC 27" means the request for classification form to be submitted to the DPMC by a firm seeking classification with the DPMC in accordance with the DPMC rules at *N.J.A.C. 17:19*.

"DPMC Classification" means the process and product of assigning specific construction categories or trades and the maximum Aggregate Rating which define the eligibility of firms to engage in public work as determined by the DPMC in accordance with the DPMC rules at *N.J.A.C. 17:19-1*.

"EFCFA" means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72.

"Firm" means any association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including their assignees, lessees, receivers or trustees.

"Grant funded district" means a district which receives funding for a school facilities project from the Authority pursuant to section 15 of EFCFA, *N.J.S.A. 18A:7G-15*.

"Instructions to Bidders" means that portion of the bid and contract documents setting forth the requirements and procedures for bidding on an Authority project.

"Irregular bid" means a Project Rating Proposal or a Price Proposal that does not conform to the bid and contract documents for the schools facilities package.

"Notice of DPMC Classification" means the document(s) from the DPMC notifying the Firm of the specific construction categories or trades and of the maximum Aggregate Rating for which the firm may perform work, in accordance with the DPMC rules at *N.J.A.C. 17:19*.

"Notice of Prequalification" means the letter from the Authority issuing the firm its prequalification.

"Prequalification" means the process and product of being approved by the Authority to perform work in a given trade and within a given aggregate limit on school facilities packages and grant funded projects.

"Price Proposal" means that part of the bid to be submitted by the firm setting forth the firm's bid price, including any and all information and documents required by the Instructions to Bidders, the bid advertisement or addenda.

"Project management firm" or "PMF" means the firm engaged by the Authority to provide overall construction management services, oversight, direction, coordination, and reporting in connection with school facilities projects.

"Project Rating" means the maximum amount a firm may bid on any school facilities package based upon the information contained in a firm's Project Rating Proposal.

"Project Rating Proposal" means that part of the bid to be submitted by the firm for issuance by the Authority of the Project Rating.

"Schools Construction Program" or "School Program" means the over-all program mandated by the Act for the design, renovation, repair, and new construction of primary and secondary public schools throughout the State, through the implementation of school facilities projects.

"School facilities package" or "package" means any and all of the school facilities projects that are identified in the Bid Documents.

"School facilities project" or "project" means the demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction or capital maintenance, in accordance with the Department of Education's rules at *N.J.A.C. 6A:26*, of all or any part of a school facility or of any personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment. Each school facilities project that is part of the firm's work is identified in the contract documents.

"School facility" means and includes any structure, building or facility used wholly or in part by a school district for academic purposes.

"State" means the State of New Jersey, or any of the departments or agencies in the Executive Branch of government.

"Work" means the furnishing of all labor, services, materials, equipment, tools, transportation, supplies and other incidentals to be furnished, provided or performed by the firm, as required by the contract documents, including all efforts necessary or appropriate to achieve final acceptance and completion.

§ 19:38-2.1 Necessity for Prequalification

(a) Only those firms holding a valid Notice of Prequalification issued by the Authority in accordance with the procedures in *N.J.A.C. 19:38A* shall be eligible to bid for work on a school facilities package. A firm's prequalification must be valid on the due date for the submission of the Project Rating Proposal and on the due date for the submission of the Price Proposal.

(b) The Authority may establish appropriate and special prequalification requirements as may be necessary in order to ensure competitive bidding on any and all school facilities projects or as may be dictated by the unique or specialized nature of the work to be performed.

§ 19:38-3.1 Contents of the bid

(a) A bid consists of two separate proposals:

1. The first proposal is the Project Rating Proposal, which consists of information regarding the "other factors" as defined in the Act which will be evaluated by the Authority. The Authority will determine a firm's Project Rating based on this Proposal. A firm may not submit a Project Rating Proposal prior to the effective date of the firm's prequalification. If, in the prior 24-month period, a firm has been assigned a Project Rating, the firm may so indicate on the signed Project Rating Proposal submitted for each project and may request that the Authority apply the prior Project Rating to the current bid, provided that the firm certifies that there has been no change regarding safety, prevailing wage record, or its Authority Project Evaluation Record, since the prior Project Rating was assigned.

2. The second proposal is the Price Proposal which shall contain the price the firm bids for the work as well as other information and documents, as required by the contract documents. A firm may not submit a Price Proposal if it has not been assigned a Project Rating.

§ 19:38-3.2 Fraudulent statements

Any firm or individual who makes, or causes to be made, a false, deceptive or fraudulent statement in its bid or in the course of any hearing under this chapter may be disqualified from bidding, suspended and/or debarred and may be subject to prosecution pursuant to applicable law.

§ 19:38-3.3 Submission of Project Rating Proposal

(a) The Project Rating Proposal shall be delivered by the firm to the Authority at the hour, date, and place specified in the bid advertisement as may be modified by addendum. Project Rating Proposals will be accepted only from firms currently prequalified with the Authority in accordance with *N.J.A.C. 19:38A*.

(b) An irregular bid may be rejected for failure to comply with the bid and contract documents.

(c) The Authority shall examine the Project Rating Proposal and all documents required to be submitted with the Project Rating Proposal for completeness and conformity with bidding requirements. If the Authority determines that a Project Rating Proposal received for a school facility package must be rejected as being non-responsive, it shall notify the firm in writing of the rejection of its Project Rating Proposal and the reason for the rejection within 10 business days of the receipt of the Project Rating Proposal unless there are circumstances that require additional time.

§ 19:38-3.4 Calculation of the Project Rating

(a) Firms shall supply the information required for the calculation of a Project Rating in the trade for which the firm is seeking a Project Rating. The Project Rating shall be based on the following factors:

1. A check of references supplied by the firm on projects completed by the firm in the past seven years. This includes information regarding the firm's performance on other school facilities projects;

2. Information regarding the firm's safety record;

3. Information regarding the firm's prevailing wage record;

4. The firm's Authority project evaluation record; and

5. Other information deemed relevant by the Authority.

§ 19:38-3.5 Determination of Project Rating

(a) A firm's Project Rating for the trade shall be determined by the following:

$A \text{ [times] } (100\% + B + C + D) \text{ [times] } E$

where:

A = the firm's largest completed project in a specific trade listed in the Project Rating Proposal

B = the sum of the Reference Adjustment calculated pursuant to this chapter

C = the Safety Adjustment calculated pursuant this chapter

D = the Prevailing Wage Adjustment calculated pursuant to this chapter

E = the average of the firm's Project Evaluations

A firm's Project Rating for a trade cannot exceed the firm's Aggregate Rating and cannot exceed 170 percent of the firm's largest listed completed project.

(b) Reference Adjustment Calculation: A firm will be required to list in its Project Rating Proposal a minimum of two projects completed within the past seven years. The firm shall also provide project contacts for those projects. The Authority shall select, at its discretion, two projects to be confirmed and shall contact the owner's contact identified by the firm. If the Authority cannot contact an owner's contact, the Authority will contact the firm for another owner's contact for that project. If the firm is unable to provide an additional owner's contact, or if the Authority is unable to contact the additional owner's contact provided by the firm, the Authority will not use that project in the determination of the firm's Project Rating. The Authority will confirm the firm's performance on the job and assign a percentage value to the responses received. Project contacts will be asked if the performance in each of the following seven categories "exceeded expectations," "met expectations," or fell "below expectations" and the Authority will assign to the response the percentage adjustment listed below:

\$ JExceeded, Met, Below

	Expectations	Expectations	Expectations
\$ Safety	+5 percent	+3 percent	-5 percent
Quality of the construction.	+5 percent	+2 percent	-5 percent
Timeliness of the work performed.	+2 percent	+1 percent	-2 percent
Efficiency of the firm's contract administration.	+2 percent	+1 percent	-2 percent
Supervision of subcontractors.	+2 percent	+1 percent	-2 percent
Firm's level of cooperation during construction.	+2 percent	+1 percent	-2 percent
Timeliness and efficiency of punch list work corrections.	+2 percent	+1 percent	-2 percent

1. If an owner's contact rates a firm "below expectations" in either safety or quality of construction, or if the project reference adjustment is -5 or lower, the Authority will not use that project in the determination of the firm's Project Rating.

2. The Authority will total the project reference adjustments together and the sum shall be the Reference Adjustment. This Reference Adjustment shall be used as "B" in the calculation of the firm's Project Rating in (a) above.

(c) Bidders shall provide mandatory safety information as follows:

1. The firm will be required to list its most recent New Jersey Workers Compensation Insurance Experience Modification Rate (NJEMR) on its Project Rating Proposal. For any firm that has not performed work in New Jersey prior to the submission of this Project Rating Proposal, or for which the NJEMR has not been calculated, the firm will be required to submit its most recent Experience Modification Rate (EMR) for all other States for which it has performed

work. The Authority will then calculate the average of the other states' EMRs. Where appropriate, the firm's NJEMR or its average EMR as calculated by the Authority will be assigned a percentage value as listed below:

EMR is less than or equal to .80	+30 percent
EMR is greater than .80 but less than or equal to .90	+20 percent
EMR is greater than .90 but less than or equal to 1.00	+10 percent
EMR is greater than 1.00 but less than or equal to 1.10	-10 percent
EMR is greater than 1.10 but less than or equal to 1.20	-20 percent
EMR is greater than 1.20	-40 percent

2. The firm shall be required to list safety information in its Project Rating Proposal. The safety information supplied will be assigned a percentage value as listed below:

Employee of the firm completed an OSHA 500 or OSHA 502 course in last 4 years.	+2 percent	0 percent
Employee of the firm completed Council on Certification of Health, Environmental and Safety Technologists (CHEST) "Safety Trained Supervisor in Construction" course.	+2 percent	0 percent
Employee of the firm completed Associated General Contractors of America (AGCA) "Safety Management Training Course."	+2 percent	0 percent

The percentage value for the EMR and the percentage value for the Safety Information shall be added together and this total shall be the Safety Adjustment. The Safety Adjustment shall be used as "C" in the calculation of the firm's Project Rating in (a) above.

(d) Prevailing Wage: The firm will be required to list its prevailing wage record with the New Jersey Department of Labor and Workforce Development on its Project Rating Proposal. The Authority will assign a prevailing wage percentage value as listed below:

The firm has been adjudicated as having committed the following prevailing wage rate violations during the past five years:

None	0 percent
One	-10 percent
More than one	-20 percent

This percentage value shall be the Prevailing Wage Adjustment. The Prevailing Wage Adjustment shall be used as "D" in the calculation of the firm's Project Rating in (a) above.

(e) Project Evaluations: Every construction project managed by the Authority will be evaluated by two evaluators for the following: quality of work; scheduling; management; cost control and change orders; safety and industrial hygiene; subcontractors; small business goals; and close-out.

1. Evaluation rating values are:

i. Outstanding (O) or 100 percent - far exceeds the contract requirements by consistently exhibiting excellent performance. Typically meets and regularly exceeds the contract requirements;

ii. Very Good (VG) or 90 percent - often exceeds the contract requirements and frequently provides a high level of performance. Typically meets and often exceeds the contract requirements;

iii. Satisfactory (S) or 80 percent - provides an acceptable level of performance consistently meeting the contract requirements;

iv. Marginal (M) or 70 percent for scheduling, management, cost control and change orders, subcontractors, close out and 40 percent for quality of work, safety and industrial hygiene, and small business goals - performs slightly below the requirements of the contract, meeting the contract requirements on an intermittent basis; and

v. Unsatisfactory (U) or 60 percent for scheduling, management, cost control and change orders, subcontractors, close out and 20 percent for quality of work, safety and industrial hygiene, and small business goals - fails to meet important contract requirements, resulting in a negative impact on the entire project.

2. The contractor's Performance Evaluation Summary Rating shall be the mathematical average of the two evaluators' ratings. In the event that there are multiple Performance Evaluation Summary Ratings for a contractor, the contractor's Performance Evaluation Summary Rating shall be the mathematical average of all Performance Evaluation Summary Ratings.

3. The Authority will assign a Project Evaluation Performance Multiplier as listed below:

Performance Evaluation Summary Rating	Performance multiplier
80 points or higher	1.00
70 points to 79.9 points	.50
69.9 points or lower	.25

This Performance Multiplier shall be used as "E" in the calculation of the firm's Project Rating. In the event that a contractor does not have a Performance Evaluation Summary Rating, the Authority will disregard the Performance Multiplier in the calculation of the firm's Project Rating in (a) above.

§ 19:38-3.6 Submission of Price Proposal

(a) Price Proposals will be received at the time, date, and place specified in the bid advertisement as may be modified by addendum. Price Proposals will be accepted only from firms currently prequalified with the Authority and which have submitted a Project Rating Proposal in accordance with the Instructions to Bidders and this chapter.

(b) An officer or employee of the Authority will open each bid session as near to the time specified in the advertisement as is practical. The Authority representative will announce the school facilities packages on which bids are being received during that bid session. The Authority representative will then declare the bidding closed. No bids will be accepted after the bidding has been closed.

(c) The Price Proposals will be opened and total lump sum base bid prices as well as prices for any and all alternates, if applicable, will be read.

(d) Unless otherwise directed by the Authority, each Price Proposal shall be accompanied by a bid proposal bond in an amount equal to or greater than 10 percent of the bid price. Each bid bond shall reference the package to which it applies.

1. Bid bonds shall comply with the requirements of this chapter and relevant State statutes. Bid bonds covering Authority packages shall be issued only in accordance with *N.J.S.A. 2A:44-143* through 147 to the contractor and shall indicate aggregate bonding limits; by companies listed in the current United States Treasury Department Circular 570, which Circular will establish the underwriting limitation for any one risk.

2. Bid bonds shall be issued only by companies authorized to transact business in the State of New Jersey.

3. Two or more companies may underwrite the bid bond on a package if the aggregate of their underwriting limitations, as established by United States Treasury Department Circular 570, is not exceeded by the penal sum of the bid bond. Each company may limit its liability, upon the face of the bond or power of attorney form, to a definite specified amount within its underwriting limitation. Such obligation shall be executed by the principal and sureties jointly and severally.

(e) The Authority shall examine all the Price Proposals and all documents required to be submitted with the Price Proposals for completeness, conformity with requirements and mathematical accuracy. Adjustments will be made by the

Authority where necessary to establish the correct total bid amount. If the Authority determines that a Price Proposal received for a school facility package must be rejected as being non-responsive, it shall notify the firm in writing of the rejection of its Price Proposal as being non-responsive and the reason for the rejection within 10 business days of the receipt of Price Proposals, unless there are circumstances that require additional time.

(f) The submission of a Price Proposal is conclusive evidence that the firm has completely reviewed the bid and contract documents and fully understands and agrees to all of the requirements, terms and conditions set forth therein.

§ 19:38-3.7 Special Project Rating and Price Proposal requirements

With respect to *N.J.A.C. 19:38-3.5* and *3.6*, the Authority may establish appropriate and special requirements and/or waive requirements as may be necessary in order to ensure competitive bidding on any and all school facilities projects or as may be dictated by the unique and specialized nature of the work to be performed.

§ 19:38-3.8 Requirements to bid within a firm's Aggregate Rating and Project Rating

(a) A firm shall not submit a Price Proposal that exceeds its Project Rating in the trade classification required to bid the package.

(b) A firm shall not submit a Price Proposal which causes the total outstanding amount of all of its existing contracts, as defined in the Authority backlog form, both public and private, to exceed its Aggregate Rating.

(c) A firm shall include with its Price Proposal a completed Authority backlog form, which is a statement of the current value and status of its backlog of uncompleted construction work as of the Price Proposal due date and certification that the award of the subject schools facilities package will not cause the firm to exceed its Aggregate Rating.

(d) If a question arises as to whether an amount bid for a schools facilities package is within a firm's existing Project Rating or the firm's Aggregate Rating, the Price Proposal shall be opened and if the Price Proposal exceeds the firm's Project Rating or Aggregate Rating, the bid shall be rejected.

(e) A firm shall not be awarded a school facilities project that exceeds its Project Rating.

(f) A firm shall not be awarded a school facilities package which, when added to the backlog of uncompleted construction work as defined in and shown on the completed Authority's backlog form, would exceed the firm's Aggregate Rating. The backlog of uncompleted construction work shall be the total contract value of unbilled work, as evidenced by the most recent approved invoice (or other similar documentation) received by the firm before the date of the Price Proposal.

(g) If a firm successfully bids for two or more school facilities packages, which, either in combination with each other or in combination with the backlog of uncompleted construction work on other currently held contracts would exceed the firm's Aggregate Rating, the firm shall be awarded only those school facilities packages which in combination fall within the firm's Aggregate Rating as set forth in *N.J.A.C. 19:38-3.9*.

§ 19:38-3.9 Multiple bids

(a) A firm may submit multiple bids when the sum of the bids exceeds the firm's aggregate rating; however, a firm may not enter into any contracts in excess of its Aggregate Rating as set forth on the Authority's backlog form submitted with the Price Proposal. Upon receipt of multiple bids, the Authority, at its sole discretion, shall determine which contract or contracts are to be awarded to such firm within the firm's aggregate rating.

(b) If a bidder submits bids on two or more packages at the same bid session, that bidder must have a current Aggregate Rating greater than or equal to the combined amount of its bids, unless a reservation has been placed in each bid limiting the maximum gross amount of awards acceptable to the bidder at that particular bid letting. If such reservations are placed in the bids, the Authority will select which contract or contracts are to be awarded to such bidder within the maximum gross amount reserved.

§ 19:38-3.10 Withdrawal or substitution of bid prior to bid opening

A firm may withdraw a bid or substitute a bid with another by submitting a letter to the Authority prior to the bid opening. The withdrawal or substitution shall include the name of the firm, the date and time of the original Project Rating Proposal and Price Proposal, the name of a principal of the firm responsible for the action, and the action to be taken.

§ 19:38-3.11 Irregular bids

(a) Bids will be considered irregular and may be rejected for failure to comply with the bid and contract documents for reasons that may include, but are not limited to, the following:

1. If the bid is on a form other than that furnished by the Authority or if the form is altered or any part thereof is detached or incomplete;
2. If the bid is not properly signed or sealed;
3. If the bid is not typed or completed in ink;
4. If there are unauthorized additions, conditions or alternate bids, or irregularities of any kind that may tend to make the bid incomplete, indefinite, or ambiguous as to its meaning;
5. If the bid contains any provisions reserving the right to accept or reject an award, or in any way submits a contingent bid to enter into a contract pursuant to any award. The prohibition does not include a reservation limiting the maximum gross amount of awards acceptable to any one bidder at any one bid letting. However, the Authority will make the selection of which contract or contracts are to be awarded to such bidder within the maximum gross amount reserved;
6. If the bid contains any alterations to any prices or amounts that have been established by the Authority in the bid and contract documents;
7. If the Price Proposal fails to contain a price for an alternate or allowance required by the bid and contract documents;
8. If the Price Proposal is not accompanied by a bid bond as required by the bid and contract documents;
9. If the firm fails to acknowledge addenda, letters, and other notices required to be acknowledged that have been sent by the Authority or the PMF;
10. If the firm fails to name in the bid proposal identify subcontractors required to be named by the bid and contract documents;
11. If the firm submits a bid that exceeds the firm's Project Rating or its Aggregate Rating;
12. If the bidder submits a bid which exceeds its Project Rating in the trade classification to bid the package or its aggregate limit; or
13. If the Authority deems it advisable to do so in the interest of the State or the public interest.

§ 19:38-4.1 Scope and purpose

(a) This subchapter sets forth the procedures that govern challenges to an action of the Authority in the issuance of a Project Rating, in the issuance of a bid advertisement or an issuance of proposed contract documents, or to the acceptance of a Price Proposal for school facilities packages.

(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.

§ 19:38-4.2 Bid protests, hearing procedures, time limitations

(a) A challenge to the following actions of the Authority shall be made as follows:

1. Project Rating: If a firm is dissatisfied with its Project Rating, the firm must submit a written protest to the Managing Director of Procurement, setting forth all arguments, materials, or other documents that may support the protestor's position and a statement as to whether the protestor requests the opportunity for an informal hearing.

i. If the Project Rating Proposal is received by the Authority more than 10 days prior to the date for submission of the Price Proposal, the written request must be received by the Authority within five calendar days after the date of the notification of the firm's Project Rating.

ii. If the Project Rating Proposal is received by the Authority less than 10 days prior to the date for the submission of the Price Proposal, but not on the same day as the submission of the Price Proposal, the written request must be received by the Authority at least three business days prior to the date for submission of the Price Proposal.

iii. If the Project Rating Proposal is received by the Authority on the same day as the Price Proposal, the written request must be received by the Authority within five days of the receipt of both the Project Rating Proposal and the Price Proposal.

2. Bid and Contract Documents: A firm intending to submit a Price Proposal for a school facilities project and objecting to a requirement of the bid and/or contract documents must submit a written protest to the Managing Director of Procurement at least three business days prior to the opening of the Price Proposals, setting forth in detail the grounds for such protest. The protest must contain all arguments, materials, or other documents that may support the protestor's position. The Authority may disregard any protest of bid and contract documents, which is filed less than three business days prior to the scheduled Price Proposal opening or which fails to provide the specific reasons for and arguments supporting the protest.

3. Price Proposal: A firm protesting the rejection of its Price Proposal or the submission of a Price Proposal by another firm must submit a written protest to the Managing Director of Procurement setting forth the specific grounds for challenging the acceptance or rejection of the Price Proposal. The protest must contain all arguments, materials or other documents that may support the protestor's position and a statement as to whether the protestor requests the opportunity for an informal hearing. A firm protesting the rejection of its own Price Proposal must submit a written protest within five days of receipt of its rejection. A firm protesting the rejection of the submission of a Price Proposal by another firm must submit a written protest within five calendar days after the opening of the Price Proposals.

§ 19:38-4.3 Hearing procedures

(a) Hearing procedures shall be as follows:

1. The Authority, in its sole discretion, shall determine whether to grant the opportunity for an informal hearing regarding a bid protest. Informal hearings are for fact-finding purposes for the benefit of the Authority and the Authority shall have the sole discretion as to requesting or requiring a 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 waive the hearing and 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 48 hours of receipt of all documents related to said protest.

2. Informal hearings will be held, where feasible, within five calendar days of the receipt of the request. Hearings will be heard, where practicable, by an impartial hearing officer designated by the Managing Director of Procurement. The hearing officer shall issue a final written decision within 10 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 a Project Rating, the written decision will issue prior to the opening of Price Proposals for the school facilities package, which is the subject of the protest. If the decision, which is based upon a protest of the bid and contract documents, results in a modification of the bid and contract documents, such decision shall be conveyed to all potential firms by addendum.

3. In an informal hearing, the Managing Director of Procurement 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 section. In these instances, the Managing Director of Procurement shall document, for the record, the rationale for such amendment and give adequate notice to the parties involved.

§ 19:38-5.1 Contracts

(a) The Authority will send the successful firm a Notice of Award letter. The Notice of Award letter shall contain a list of the additional documents required to be submitted by the contractor with the executed contract. The Authority will specify the time within which the executed contract and required documents must be returned.

(b) Each payment and each performance bond must be in an amount at least equal to the total contract price.

1. All bonds shall comply with the requirements of this chapter and relevant State statutes. All bonds submitted by the contractor shall be issued only in accordance with *N.J.S.A. 2A:44-143* through 147 to the contractor and shall indicate aggregate bonding limits.

2. Bonds shall be issued only by companies authorized to transact business in the State of New Jersey.

3. Two or more companies may underwrite the payment and performance bonds on a project if the aggregate of their underwriting limitations, as established by United States Treasury Department Circular 570, is not exceeded by the penal sum of the bonds. Each company may limit its liability, upon the face of the bond or power of attorney form, to a definite specified amount within its underwriting limitation. Such obligations must be executed by the principal and sureties jointly and severally.

(c) If the contractor fails to return the executed contract and bonds and other required documents within the time specified by the Authority, the Authority may take whatever action is appropriate and authorized by law and by the contract documents, including, but not limited to, proceeding to recover under the bid bond.

(d) After execution by the Authority, a copy of the signed contract will be sent to the contractor.

Resolution—6f.

Extension of Existing Regulations: Notice of Re-adoption (without Amendments)
 Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey
 Schools Construction Program, N.J.A.C. 19:38A

Resolution

WHEREAS, N.J.S.A. 52:18A-238 (4)(k) requires that the New Jersey Schools Development Authority (SDA or the Authority) shall adopt, amend and repeal regulations to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. 2007, c. 137 (C. 52:18A-235 et al.); and

WHEREAS, on November 6, 2013, the Members of the Authority approved for final adoption regulations for Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Program, N.J.A.C. 19:38A (the Rules); and

WHEREAS, the Rules govern the procedures for pre-qualification of contractors, sub-contractors, professional services consultants and sub-consultants seeking to participate in school facilities projects, and the requirements and standards for pre-qualification, grounds for denial or revocation of pre-qualification, and protest and appeal procedures for the pre-qualification process; and

WHEREAS, the Rules were promulgated to ensure that only those qualified contractors and professional services consultants who possess the requisite moral integrity are permitted to provide construction services, professional services, and other goods and services for school facilities projects; and

WHEREAS, the Rules were formally published in the New Jersey Register on January 6, 2014, are scheduled to expire on November 8, 2020, and are now being proposed for final adoption without change; and

WHEREAS, the memorandum presented to the Board on this date and incorporated herein provides a full description of the Rules; and

WHEREAS, management of the SDA requests and recommends the Members' approval to proceed with completion of the formal adoption of the Rules and ratification of management's filing of a Notice of Adoption with the Office of Administrative Law to effectuate adoption of the Rules without change, and subsequent publication of the final approved Rules and Notice of Adoption in the New Jersey Register; and

WHEREAS, the memorandum presented to the Board on this date and incorporated herein describes the Notice of Re-adoption process, along with the basis for its utilization in connection with the Rules; and

WHEREAS, this re-adoption and extension of the Rules 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; and

WHEREAS, the Members of the Authority have reviewed the memorandum and the Rules presented to the Board on this date and agree with management's recommendation.

NOW, THEREFORE, BE IT RESOLVED, that the Members of the Authority hereby ratify management's utilization of the Notice of Re-adoption process to effectuate the re-adoption and extension of the Title 19, Chapter 38A Rules, Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Program, utilizing the Notice of Re-adoption that has been filed with the Office of Administrative Law which, upon approval, will be processed for publication in the New Jersey Register.

BE IT FURTHER RESOLVED, that this re-adoption and extension of the Rules will permit further review of the existing rules, consideration of any needed amendments, and provide 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) - Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Program, N.J.A.C. 19:38A, dated October 7, 2020

Dated: October 7, 2020

MONTHLY REPORTS
(For Informational Purposes)

ACTIVE PROJECTS STATUS REPORT



STATE OF NEW JERSEY
SCHOOLS DEVELOPMENT AUTHORITY

MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director

DATE: October 7, 2020

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

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

The 2nd 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 9/23/20

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.

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2011 & 2012 Portfolio Projects Activities Summary
as of 9/23/20

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	\$28.4	Design-Bid-Build	Award for D-B approved Nov. 2019 Board. (Niram)	6/24/19
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.

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2011 & 2012 Portfolio Projects Activities Summary

as of 9/23/20

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	Sheila Y. Oliver Academy (GW Carver ES)	PK-5	470	512	\$41.2	Kit of Parts/ Design-Build	School delivered 9/3/2020. (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	School occupied Sep. 2019. (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	Sonia Sotomayor ES (New ES @ Leonard Place)	K-5	628	698	\$55.9	Kit of Parts/ Design-Build	School occupied Sep. 2019. (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	School delivered 9/3/2020. (Bock)	3/1/17 9/13/17
Perth Amboy	High School	HS	2,800	3,295	\$283.8	Design-Build	Award for D-B approved Nov. 2019 Board. (Terminal)	3/26/19
Perth Amboy	Rose M. Lopez ES (Seaman Avenue ES)	K-5	724	804	\$56.4	Kit of Parts/ Design-Build	School occupied Sep. 2019. (Epic Management).	2/3/16
Plainfield	New Woodland ES	K-5	756	840	\$59.4	Kit of Parts/ Design-Build	Award for D-B approved Feb. 2020 Board. (Epic Management)	5/23/18 8/29/19
Union City	New Grade 7 to 9 School	7-9	756	840	\$75.5	Kit of Parts/ Design-Build	Revised Preliminary Charter approved Dec. 2019 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.

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2011 & 2012 Portfolio Projects Activities Summary

as of 9/23/20

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	Pre-Design Services ongoing.	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	School occupied Sep. 2019. (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.

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Active Project Status Report Status as of 9/9/2020

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	Construction	3Q 2021	On-target	Sep-21	On-target	\$ 132,569,255
2	City of Orange	Cleveland Street ES	Addition/Renovation	Construction	3Q 2021	On-target	Sep-21	On-target	\$ 33,243,608
3	City of Orange	Orange High School	Addition/Renovation	Construction	2Q 2022	On-target	Phased	On-target	\$ 51,931,218
4	East Orange	New GW Carver ES	New Construction	Substantial Completion	3Q 2020	Achieved	Sep-20	On-target	\$ 41,179,670
5	Harrison	New Elementary School	New Construction	Construction	3Q 2020	On-target	Sep-20	On-target	\$ 36,115,640
6	Keansburg	Port Monmouth Road School	Addition/Renovation	Construction	2Q 2022	On-target	Sep-22	On-target	\$ 28,440,130
7	Millville	Millville Senior High School	Addition/Renovation	Construction	3Q 2022	On-target	Phased	On-target	\$ 137,503,832
8	Passaic City	New Dayton Avenue Educational Campus	New Construction	Construction	2Q 2022	On-target	Sep-22	On-target	\$ 240,923,270
9	Paterson	New Union Ave MS	New Construction	Construction	2Q 2021	On-target	Sep-21	On-target	\$ 113,902,274
10	Pemberton	New Denbo ES	New Construction	Construction	1Q 2021	On-target	Sep-20	On-target	\$ 58,703,414
11	Perth Amboy	New High School	New Construction	Design-Build Design Phase	2Q 2024	On-target	Sep-24	On-target	\$ 283,830,000
12	Plainfield	New Woodland ES	New Construction	Design-Build Design Phase	3Q 2022	On-target	Sep-22	On-target	\$ 59,440,000

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**Active Project Status Report
Status as of 9/9/2020**

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	Bridgeton	Bridgeton Senior HS	Roof Replacement & Masonry Repairs	Construction	3Q 2021	On Target	4Q 2021	On-Target	\$ 9,842,000
1	Camden	Hatch MS (New Camden HS Temporary Space)	Roof Repairs	Complete	3Q 2020	Achieved	3Q 2020	Achieved	\$ 480,049
2	Newark	Lafayette Street School	Exterior Doors & Roofing	Substantial Completion	2Q 2020	Achieved	4Q 2020	On-Target	\$ 658,129

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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: October 7, 2020
Subject: Project Close-Out Status Report

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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.



PROJECT STATUS REPORT - As of September 1, 2020					
Year of Occupancy	DOE #	School	Disposition	Project Transfer Date	Outstanding Issues Preventing Complete Close-out
Bridgeton					
2016	0540-050-13-0ACN	Buckshutem Road Elementary School			
2017	0540-100-13-0ACO	Quarter Mile Lane Elementary School			
Burlington City					
2007	0600-020-01-0957	New High School	Project Transferred	12/29/11	Open contract(s)
Camden					
2009	0680-350-01-0938	HB Wilson Elementary School	Project Transferred	04/14/10	Open contract(s)
Egg Harbor City					
2010	1300-X01-04-0ADY	New Middle School	Project Transferred	01/01/12	Open contract(s)
Egg Harbor Township					
2011	1310-005-04-0AEB	Egg Harbor Township High School			
Elizabeth					
2017	1320-N20-13-0AEG	Halloran Elementary School	Project Transferred	06/12/18	Open contract(s)
2016	1320-X07-01-0867	Frank J. Cicarell Academy (New Academic HS)	Project Transferred	07/18/19	Open contract(s)
2013	1320-240-03-0339	Victor Mravlag Elementary School # 21	Project Transferred	08/27/19	Open contract(s) - Legal matter pending
Garfield					
2018	1700-205-03-0315	James Madison Elementary School #10			
Gloucester City					
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)
Irvington					
2019	2330-120-03-0755	Madison Avenue Elementary School			
Jersey City					
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)
2017	2390-X03-01-0587	Patricia M. Noonan ES (New PS #3)	Project Transferred	12/14/17	Open contract(s)
2007	2390-N03-99-0147	Heights Middle School #7			
Keansburg					
2016	2400-E01-02-0116	New Caruso Elementary School	Project Transferred	08/13/18	Open contract(s)
Newark					
Legacy	3570-X01-01-0617	Science Park	Project Transferred	05/03/13	Open contract(s)
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			

PROJECT STATUS REPORT - As of September 1, 2020					
Year of Occupancy	DOE #	School	Disposition	Project Transfer Date	Outstanding Issues Preventing Complete Close-out
Passaic					
2015	3970-X01-01-X760	New Henry Street Elementary School			
2019	3970-N11-07-0DAY	Leonard Place Elementary School			
Paterson					
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			
Pemberton					
2011	4050-E01-02-0082	Pemberton Early Childhood Education Center	Project Transferred	02/01/13	Open contract(s)
Perth Amboy					
2019	4090-N01-98-0325	Seaman Avenue Elementary School			
Phillipsburg					
2016	4100-X01-99-0464	New High School	Project Transferred	06/07/18	Open contract(s)
Trenton					
2019	5210-050-13-0AEH	Trenton Central High School			
Vineland					
2018	5390-N02-02-0245	Lincoln Avenue Middle School			
West New York					
2009	5670-065-01-0559	Elementary School #2	Project Transferred	05/14/13	Open contract(s)
Capital and Demonstration Projects Totals					
Total Capital and Demonstration Projects			155		
Closed Capital and Demonstration Projects			121		
Capital and Demonstration Projects Not Closed			34		
Capital and Demonstration Projects Not Closed, Project Transferred			20		
			Legal Matter	3	
			Miscellaneous	17	

PROJECT STATUS REPORT - As of September 1, 2020					
Year of Occupancy	DOE #	School	Disposition	Project Transfer Date	Outstanding Issues Preventing Complete Close-out
Emergent Projects					
Camden					
	0680-170-12-0ACF	Cramer Elementary School			
Newark					
	3570-301-17-0AES	Marin - HVAC			
	3570-415-17-0AER	Dr. E. Alma Flagg E.S. - Doors and Roofing			
	3570-460-17-0AEZ	Hawkins ES - Chimney Repairs			
	3570-480-17-0AET	Lafayette - Doors and Roofing			
	3570-750-17-0BBC	Wilson School Annex - Chimney			
Paterson					
	4010-N02-12-0ABX	Roberto Clemente ES			
Plainfield					
	4160-050-17-0BBD	Plainfield High School			
Vineland					
	5390-050-12-0ACK	Vineland High School South			
Emergent Project Totals					
Total Emergent Projects			79		
Emergent Projects Closed			70		
Emergent Projects Not Closed			9		
Emergent Projects Not Closed but Transferred			0		
Health and Safety Contract Totals					
Total Contracts			399		
# of Contracts Closed			394		
# of Open Contracts			5		
Open Design Contracts					
Total Contracts			109		
# of Contracts Closed			98		
# of Open Contracts			11		

PROJECT STATUS REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director – Program Operations

DATE: October 7, 2020

SUBJECT: Executive Summary – Monthly Project Status Reports

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: January 2008 to August 2020

District	Project	Board Approved Project Charter Contingency	Contingency Expended/Committed	Contingency Remaining ¹	% 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

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. Project close-out pending resolution of open contracts.
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. Project close-out pending resolution of open contracts.
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. Project close-out pending resolution of open contracts.

¹ Does not include expended contingency or contingency funds allocated for change orders, amendments



Projects Greater than 90 Days Behind Schedule or with Occupancy Date in Jeopardy

Reporting Period: August 2020

#	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
No Activity During the Reporting Period									



Revisions to Project Charters

Reporting Period: August 2020

#	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: October 7, 2020

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

Contracts Executed Report

This report contains the activity of Contracts executed during the period August 1 through August 31, 2020.

Noteworthy Items during the reporting period:

- Execution of 1 Construction Management Services Contract for the Bridgeton HS Roof Replacement and Masonry Repair emergent project – Greyhawk North America – \$677,400
- Execution of 1 General Construction Contract for the Bridgeton HS Roof Replacement and Masonry Repair emergent project – Ernest Bock & Sons, Inc. – \$6,535,000

Amendments & Change Orders Report

This report contains the activity of Amendments and Change Orders executed during the period August 1 through August 31, 2020.

Noteworthy Items during the reporting period:

- No Professional Services Amendments were executed during the reporting period.
- 10 Construction Services Change Order were executed during the reporting period totaling \$2.2 million, of the 10 executed change orders 2 required Board Approval totaling \$1.9 million.

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: 8/1/2020 through: 8/31/2020

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
Part 1. Professional Services										
Others										
Bridgeton	Bridgeton Senior H.S.	Reno	ConstrMgmt	EP-0105-M01	GREYHAWK North America LLC		\$ 677,400	8/27/2020	-	
Others										
Part 1. Professional Services							\$ 677,400			

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Contracts Executed Report

Reporting Period: 8/1/2020 through: 8/31/2020

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
Part 2. Construction Services										
Contractor										
Bridgeton	Bridgeton Senior H.S.	Reno	Construction	EP-0105-C01	Ernest Bock & Sons, Inc.		\$ 6,535,000	8/27/2020	\$ 7,714,454	\$ 7,714,454
Contractor										
Part 2. Construction Services							\$ 6,535,000			\$ 7,714,454

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Contracts Executed Report

Reporting Period: 8/1/2020 through: 8/31/2020

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
Part 4. Other Contracts & Services										
Others										
Harrison	Harrison Kennedy E.S.	New	FFE	HU-0027-K21	Washington Computer Services		\$ 51,000	08/26/2020	-	
Pemberton	Denbo Crichton E.S.	New	FFE	WT-0023-Q30	Krueger International, Inc.		\$ 35,071	08/05/2020	-	
Part 4. Other Contracts & Services										
							\$ 86,071			
							Total Contract Award			Total Contracts Awarded
Grand Totals - Professional and Construction Services Combined							\$ 7,298,471			4

** 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: 8/1/2020 through: 8/31/2020

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 %
Construction Services													
Contractor													
Camden City	Camden H.S.	CA-0022-B01	9/26/2018	4	Ernest Bock & Sons, Inc.	8/31/2020	\$99,585,000	\$247,535	\$76,720			\$99,909,255	.32%
Millville	High School	ST-0046-B01	5/24/2017	21	Hall Construction Co., Inc.	8/12/2020	\$114,453,000	\$792,224	\$31,146	Y	5/3/2020	\$115,276,370	.71%
Millville	High School	ST-0046-B01	5/24/2017	8	Hall Construction Co., Inc.	8/31/2020	\$114,453,000	\$823,370	\$1,888,290	Y	5/3/2020	\$117,164,660	2.36%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	12	Ernest Bock & Sons, Inc.	8/17/2020	\$43,185,000	\$428,949	\$8,545			\$43,622,494	1.01%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	13	Ernest Bock & Sons, Inc.	8/17/2020	\$43,185,000	\$437,494	\$5,191			\$43,627,685	1.02%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	14	Ernest Bock & Sons, Inc.	8/17/2020	\$43,185,000	\$442,685	\$10,000			\$43,637,685	1.04%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	15	Ernest Bock & Sons, Inc.	8/17/2020	\$43,185,000	\$452,685	\$10,234			\$43,647,919	1.07%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	17	Ernest Bock & Sons, Inc.	8/17/2020	\$43,185,000	\$462,919	\$63,547			\$43,711,466	1.21%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	16	Ernest Bock & Sons, Inc.	8/18/2020	\$43,185,000	\$526,466	\$25,000			\$43,736,466	1.27%
Pemberton Township	Denbo Crichton E.S.	WT-0023-B01	2/14/2018	18	Ernest Bock & Sons, Inc.	8/18/2020	\$43,185,000	\$551,466	\$95,427			\$43,831,893	1.49%
Contractor													
Construction Services									\$2,214,100				

Total Change Order Summary
\$2,214,100

Total Change Orders
10

Grand Totals

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)*

DIVERSITY AND WORKFORCE PARTICIPATION REPORT



MEMORANDUM

7

TO: Members of the Authority

FROM: Karon L. Simmonds, Director, Risk Management

DATE: October 7, 2020

SUBJECT: Diversity and Workforce Participation Monthly Update for July 2020

The Risk Management staff continues to participate at mandatory pre-bid and pre-construction meetings to instruct and inform bidders regarding SDA's Small Business Enterprise (SBE) and Workforce goals, policies and procedures, including:

- SBE subcontracting goal of 25% of all contracts
- County workforce goals for minorities and females
- Local 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 ATTAINMENT

The SDA regularly exceeds the State-mandated 25% SBE goal. The total SDA contract dollars awarded through July 31, 2020 was \$22,154,728.00. The figures below demonstrate compliance with this requirement.

Diversity Breakdown

The total contract dollars awarded to all SBE contractors was \$4,839,451 including minorities, women and veterans). This represents 21.84% of all SDA contracts.

Type of Business Enterprise	Contract Amount	% of Total SDA Contracts
Small Business Enterprises	\$ 4,278,793	19.31%
Small/ Minority Business Enterprises	\$ -0-	0.00%
Small/Women Business Enterprises	\$ 560,658	2.53%
Small/Veteran Owned Business Enterprises	\$ -0-	0.00%
Small/Minority/Women Business Enterprises	\$ -0-	0.00%
TOTAL DIVERSITY CONTRACTS	\$ 4,839,451	21.84%

Members of the Authority
 Diversity and Workforce Participation Monthly Update for July 2020
 October 7, 2020
 Page 2 of 3

WORKFORCE PARTICIPATION

For the month of July 2020, there was a contractor workforce of 1,125 on SDA projects. This represents a total of 95,860 contractor workforce hours as follows:

Contractor Workforce Breakdown (All Trades/Districts/Counties)			
Ethnicity	Total Workforce	Total Workforce Hours	Workforce Hours Percentage
Black	116	11,354	11.84%
Hispanic	196	15,978	16.67%
American Indian	6	289	0.30%
Asian	0	0	0.00%
Total Minority Participation	318	27,621	28.81%
Total Non-Minority Participation	807	68,239	71.19%
Total Contractor Workforce	1,125	95,860	100.00%

There was a contractor workforce of 530,642 total workforce hours and 9,087 total female workforce hours on SDA projects for the period of January 1, 2020 through July 31, 2020. The following table highlights the *Local County Contractor Workforce* participation for this period:

Local County Contractor Workforce Participation	Workforce Hours	Percentage
*Total Workforce Hours	530,642	100.00%
*Total Local County Workforce Hours	43,119	8.13%
Total Local County Non-Minority Workforce Hours	17,545	3.31%
Total Local County Female Workforce Hours	0	0.00%
Total Local County Minority Workforce Hours	25,574	4.82%
**Local County Workforce Hours by Ethnicity:		
Black	16,639	3.14%
Hispanic	8,935	1.68%
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
 Diversity and Workforce Participation Monthly Update for July 2020
 October 7, 2020
 Page 3 of 3

The following table represents contractor minority and female workforce for all SDA active Capital Projects and all active and completed Emergent Projects for the period of January 1, 2020 through July 31, 2020.

SDA Managed Project	Total Workforce Hours	Minority Workforce Hours & Percentage		Local County Workforce Hours & Percentage	
Camden HS	125,860	38,085	30.26%	12,022	9.55%
GW Carver ES	3,382	553	16.35%	146	4.32%
Harrison ES	41,927	11,029	26.31%	0	0.00%
Millville HS	99,784	29,753	29.82%	14,368	14.40%
Dayton Ave Campus	161,761	54,044	33.41%	6,883	4.26%
Union Ave MS	26,148	3,806	14.56%	3,937	15.06%
Denbo-Crichton ES	37,456	5,608	14.97%	1,370	3.66%
Cleveland ES	3,982	1,188	29.83%	0	0.00%
Orange HS	28,695	10,925	38.07%	2,895	10.09%
Emergent Projects	552	190	34.42%	0	0.00%

Prepared by: Charlotte Brooks
 Zaida Olszak

REGULAR OPERATING DISTRICTS (RODs) ACTIVITY REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director, Program Operations

DATE: October 7, 2020

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

This report summarizes the Regular Operating District Grant activity from inception to date and for the month of August 2020. 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.
- No grants were executed during the reporting period.
- 4 grants impacting 1 district were closed out during the reporting period representing \$259k in total project costs and state share of \$104k.
- Since inception, over \$2.9B 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

August 2020

ROD Grant Summary Since Program Inception				
	Offered ¹	Executed	Closed-Out	Active
Districts Impacted	-	524	517	84
Number of Grant Projects	-	5,405	5,095	310
Total Project Cost Estimate	\$ -	\$ 8,946,029,766	\$ 8,621,825,861	\$ 324,203,906
Grant Amount	\$ -	\$ 3,004,761,287	\$ 2,856,027,907	\$ 148,733,380
Amount Disbursed	N/A	\$ 2,930,602,316	\$ 2,856,027,907	\$ 74,574,408

Total Funding Offered to School Districts via Grant Program	\$ 3,342,209,450
Total ROD Grant Funding remaining for new Grant Projects	\$ 81,289,307

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	-	1
Number of Grant Projects	-	4
Total Project Cost Estimate	\$ -	\$ 259,164
Grant Amount	\$ -	\$ 103,665
Amount Disbursed	NA	\$ 103,665

* 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.

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

COMMUNICATIONS MONTHLY REPORT *(no report)*

MONTHLY FINANCIAL REPORT

MEMORANDUM

TO: Members of the Authority

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

DATE: October 7, 2020

SUBJECT: Monthly Financial Report – August 2020

The Office of the Chief Financial Officer is providing the attached monthly financial report to the 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 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 August 2020 year to date, Authority operating expenses, **\$9.9M**, are **\$2.5M** lower than budget for the corresponding period. The variance is primarily related to lower year to date personnel costs, **\$1.3M**, resulting from the Authority having 27 fewer FTEs than budgeted, and lower expenses related to professional & other contracted services, **\$577K**, facilities and general office, **\$312K**, and information systems, **\$251K**.

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

For August 2020 year to date, Authority operating expenses, **\$9.9M**, are **\$2.3M** lower when compared to the corresponding prior year. The variance is mainly attributable to lower personnel costs, **\$2.1M**, resulting from the Authority having on average 34 fewer FTEs as compared to the previous year.

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

For August 2020 year to date, project expenditures, **\$192.0M**, are **\$20.8M** lower than the capital spending forecast for the corresponding period. This variance is primarily the result of lower than forecasted expenditures for grants **\$13.3M**, construction activity **\$7.4M**, and property acquisitions **\$2.1M** offset by an increase in school furniture & fixtures purchase **\$3.4M**.

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

For August 2020 year to date, project expenditures, **\$192.0M**, are lower by **\$8.4M** when compared to the corresponding prior year. The variance is attributable mainly to decreases in grant activity **\$11.2M**, school furniture & fixtures **\$5.8M**, and payroll expense allocation to project expenditures **\$849K**, offset by increases in design services **\$4.1M**, construction activity **\$4.1M**, and project insurance **\$1.3M**.

Members of the Authority

October 7, 2020

Page 2

Other

Since program inception, 87.8% of the funds authorized for the SDA Districts have been disbursed. Additionally, since program inception, 96% of all SDA disbursements relate to school facility projects and 4% relate to operating expense.

The estimated value of active school facilities, capital, emergent and ROD grant projects is approximately \$2B.

Attachment

New Jersey Schools Development Authority
Monthly Financial Report
August 2020
(Unaudited)

New Jersey Schools Development Authority

Overview of Financial Position

August 31, 2020

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, August 31, 2020.

► Overall **Cash and Cash Equivalents** have decreased by \$196.9 million to \$374.0 million, as follows:

■ Receipt of bond and note proceeds (Issued by EDA)	\$ -
■ Investment earnings	2,629,857
■ Miscellaneous revenue	28,000
■ Project costs	(192,041,603)
■ SDA operating expenses	(10,133,877)
■ SDA capital expenditures	(168,362)
■ Deposits (primarily district local shares)	2,765,733
Net Change in Cash	\$ (196,920,252)

► **Prepaid Expenses** total \$313,532 as follows:

- Prepaid insurance of \$155,599.
- Prepaid rents of \$104,470 for the Authority's leased office space in Trenton and Newark.
- Prepaid MIS maintenance service contracts of \$23,259.
- Other prepaids of \$30,204.

► **Capital Assets** total \$1,132,794 (net of accumulated depreciation of \$6,819,867), 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 \$158,589 and **Depreciation Expense** is \$108,679.

► **Accrued Liabilities** total \$92.1 million, as follows:

- Accrued project costs of \$23.2 million consisting of unpaid invoices (\$2.2million) and retainage (\$21.0 million).
- Accrued net pension liability of \$44.0 million.
- Other post-employment benefits obligation of \$21.7 million.
- Pollution remediation obligations (PRO) under GASB 49 net to \$1.4 million (PRO liability \$2.9 million, offset by expected cost recoveries of \$1.5 million).
- Estimated liability for loss contingencies totaling \$0.1 million.
- Payroll related liabilities of \$1.6 million.
- Other accrued liabilities of \$0.1 million.

► **Deposits** total \$5.5 million, as follows:

- \$5.4 million is held for local share agreements (pass-through item).

► The Authority's **Net Position** at month end is \$257.7 million.

New Jersey Schools Development Authority School Facilities Project Expenditures & Funding Allocation August 31, 2020

► **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 \$11.498 billion.
- Project expenditures for the month and year-to-date periods total \$26.2 million and \$192.0 million, respectively, as follows:

<u>Category</u>	<u>Current Month</u>	<u>Current Year-To-Date</u>	<u>Since Program Inception</u>
Construction	\$ 19,474,005	\$ 141,042,242	\$ 5,211,608,685
Design Services	63,239	1,223,080	412,279,572
PMF/CM Services	439,456	3,942,678	466,523,678
SDA Project Management	883,512	8,279,439	106,726,167
Property Acquisition, Relocation & Enviro	613,983	1,901,827	582,073,281
School Furniture, Fixtures & Equipment	4,391,656	9,406,406	195,836,659
Project Insurance	65,000	3,419,824	112,565,487
NJ State Inter-Agency Transfers	-	77,470	50,361,676
SDA District Grant & Funding Agreements	100,000	985,197	877,490,928
Regular Operating District Grant Agreements	103,666	20,660,782	2,939,534,867
Real-Time Project Audits	-	-	628,000
Property Management, Maintenance & Utils	33,691	205,483	18,447,877
Outside Legal & Claims Resolution Services	19,619	475,433	11,222,949
Temporary Staffing	5,510	100,653	10,560,994
Other Project Costs	7,993	579,755	61,909,690
Project Credits	-	-	(54,902,944)
Total Project Expenditures	26,201,330	192,300,269	11,002,867,566
Less: Local Share Contributions	-	(258,666)	(184,599,081)
Project Expenditures (State Share)	\$ 26,201,330	\$ 192,041,603	\$ 10,818,268,485
 2020 Capital Spending Forecast	 \$ 26,223,544	 \$ 212,865,224	

Allocations Since Program Inception

► **Program Funding & Expenditures**

	<u>Bonding Caps</u> ¹	<u>Total Funding</u> ²	<u>Paid to Date</u> ³
■ SDA Districts	\$ 8,900,000,000	\$ 9,026,823,940	\$ 7,924,552,121
■ Regular Operating Districts	3,450,000,000	3,500,202,918	3,261,536,821
■ Vocational Schools	150,000,000	152,006,255	122,147,240
Total - State Share	\$ 12,500,000,000	\$ 12,679,033,113	\$ 11,308,236,182

► **Percentage of Total Funding Paid to Date**

■ SDA Districts	87.8%
■ Regular Operating Districts	93.2%
■ Vocational Schools	80.4%
Total - State Share	89.2%

- 1 Of the \$12.5 billion authorized for the school construction program, \$11,497,702,648 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 \$489,967,697.

New Jersey Schools Development Authority
Fund Reporting Operating Expenses vs Budget
August 31, 2020

7

<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>
Personnel Expenses:			
Employee Salaries	\$ 10,574,597	\$ 11,760,508	\$ (1,185,911)
Employee Benefits	5,050,606	5,645,946	(595,340)
Direct Hire Temporary Employee Costs	2,561	32,296	(29,735)
Total Employee Salaries & Benefits Costs	15,627,764	17,438,750	(1,810,986)
Less: Employee Salaries & Benefits Costs			
Charged to Projects	8,279,439	8,915,846	(636,407)
Salaries & Benefits Charged to Operating Expense	7,348,325	8,522,904	(1,174,579)
Temporary Staffing Services	-	50,000	(50,000)
Travel & Expense Reimbursements	8,941	18,679	(9,738)
Training & Professional Development	13,293	46,664	(33,371)
Total Personnel Expenses	7,370,559	8,638,247	(1,267,688)
Non-Personnel Operating Expenses:			
Facilities & General Office Expenses	1,409,699	1,721,280	(311,581)
Information Systems	496,734	747,959	(251,225)
Professional & Other Contracted Services	389,210	965,952	(576,742)
Property & Casualty Insurance	235,451	243,464	(8,013)
SDA-Owned Automobiles	44,316	66,664	(22,348)
Communications & Outreach	60	2,000	(1,940)
Reserve for Unforeseen Events & New Initiatives	-	33,336	(33,336)
Total Authority Operating Expenses	\$ 9,946,029	\$ 12,418,902	\$ (2,472,873)

2020 Annual Operating Budget

\$ 17,436,021

**New Jersey Schools Development Authority
Capital Expenditures
August 31, 2020**

	Budget Year	Budget Amount	Capital Expenditures		
			2020	Pre-2020	Total
Description of Capital Item:					
Leasehold Improvements		\$ -	\$ -	\$ -	-
Office Furniture & Equipment		-	-	-	-
CM Computer Software System:					
Estimated SDA Staff Time	2020	150,000	-	-	-
Estimated SDA Staff Time	2019	450,000	-	211,192	211,192
Purchase & Development	2019	1,000,000	-	-	-
Purchase & Development	2018	1,500,000	158,589	579,268	737,857
Total Capital Items		\$ 3,100,000	\$ 158,589	\$ 790,460	\$ 949,049

New Jersey Schools Development Authority Fund Reporting Operating Expenses vs Prior Year August 31, 2020

7

<u>Category</u>	<u>Actual Year-To-Date</u>	<u>2019 Year-To-Date</u>	<u>Over/ (Under)</u>
Personnel Expenses:			
Employee Salaries	\$ 10,574,597	\$ 12,665,119	\$ (2,090,522)
Employee Benefits	5,050,606	5,828,648	(778,042)
Direct Hire Temporary Employee Costs	2,561	27,478	(24,917)
Total Employee Salaries & Benefits Costs	15,627,764	18,521,245	(2,893,481)
Less: Employee Salaries & Benefits Costs			
Charged to Projects	8,279,439	9,128,090	(848,651)
Salaries & Benefits Charged to Operating Expense	7,348,325	9,393,155	(2,044,830)
Temporary Staffing Services	-	2,003	(2,003)
Travel & Expense Reimbursements	8,941	11,558	(2,617)
Training & Professional Development	13,293	19,888	(6,595)
Total Personnel Expenses	7,370,559	9,426,604	(2,056,045)
Non-Personnel Operating Expenses:			
Facilities & General Office Expenses	1,409,699	1,609,488	(199,789)
Information Systems	496,734	644,076	(147,342)
Professional & Other Contracted Services	389,210	241,002	148,208
Property & Casualty Insurance	235,451	231,989	3,462
SDA-Owned Automobiles	44,316	58,388	(14,072)
Communications & Outreach	60	6,565	(6,505)
Reserve for Unforeseen Events & New Initiatives	-	-	-
Total Authority Operating Expenses	\$ 9,946,029	\$ 12,218,112	\$ (2,272,083)

New Jersey Schools Development Authority

Employee Headcount

August 31, 2020

	<u>Current Month End</u>	<u>Budget</u>	<u>Over/ (Under)</u>
Office of Chief Executive Officer	4	4	-
Human Resources	3	6	(3)
Communications	2	3	(1)
Information Systems	14	15	(1)
Central Records Management	3	3	-
Legislative Affairs	1	1	-
Office of Program Operations & Strategic Planning	2	2	-
Capital Planning & Program Operations	7	4	3 (1)
Design Studio	18	20	(2)
Grants Administration	10	13	(3)
Real Estate Services & Predevelopment	8	10	(2)
Vendor Development	5	5	-
Office of Construction Operations	0	2	(2)
Project Teams	28	36	(8)
Office of Corporate Governance & Legal Affairs	5	5	-
Chief Counsel	9	11	(2)
Safety	6	6	-
Internal Audit	3	4	(1)
Office of Chief Financial Officer	2	2	-
Financial Operations	8	11	(3)
Financial Accounting & Disbursements	11	13	(2)
Procurement	10	9	1 (2)
Risk Management	8	9	(1)
Property Management	4	4	-
Facilities	4	4	-
Total Full-Time Employees at Month End	<u>175</u>	<u>202</u>	<u>(27)</u>
Total Full-Time Employees at Year End		<u>205</u>	

(1) Overage is due to internal transfer of three employees from Project Teams. Change will be reflected in 2021 budget.

(2) Overage is due to internal transfer of one employee from Project Teams. Change will be reflected in 2021 budget.

New Jersey Schools Development Authority

Statement of Net Position

August 31, 2020

7

	<u>Current Month End</u>	<u>2019 Year End</u>	<u>Over/ (Under)</u>
ASSETS			
Cash and Cash Equivalents	\$ 374,027,294	\$ 570,947,546	\$ (196,920,252)
Receivables	21,413	26,957	(5,544)
Prepaid Expenses	313,532	659,130	(345,598)
Capital Assets (Net of Accumulated Depr.)	1,132,794	1,082,884	49,910
Total Assets	<u>375,495,033</u>	<u>572,716,517</u>	<u>(197,221,484)</u>
DEFERRED OUTFLOWS OF RESOURCES			
Deferred Amount for Pensions & OPEB	6,775,065	9,152,800	(2,377,735)
TOTAL ASSETS & DEFERRED OUTFLOWS OF RESOURCES			
	<u>\$ 382,270,098</u>	<u>\$ 581,869,317</u>	<u>\$ (199,599,219)</u>
LIABILITIES			
Accrued Project Costs	\$ 24,681,631	\$ 47,731,816	\$ (23,050,185)
Net Pension Liability	44,045,377	44,045,377	-
Accrued Other Post-Employment Benefits	21,722,487	21,461,300	261,187
Other Accrued Liabilities	1,636,648	4,557,130	(2,920,482)
Deposits	5,527,715	2,761,982	2,765,733
Total Liabilities	<u>97,613,858</u>	<u>120,557,605</u>	<u>(22,943,747)</u>
DEFERRED INFLOWS OF RESOURCES			
Deferred Amount for Pensions & OPEB	26,973,039	26,973,039	-
NET POSITION			
Invested in Capital Assets	1,132,794	1,082,884	49,910
Restricted for Schools Construction:			
Special Revenue Fund	256,550,407	433,255,789	(176,705,382)
Net Position	<u>257,683,201</u>	<u>434,338,673</u>	<u>(176,655,472)</u>
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES & NET POSITION			
	<u>\$ 382,270,098</u>	<u>\$ 581,869,317</u>	<u>\$ (199,599,219)</u>

New Jersey Schools Development Authority
Statement of Activities
August 31, 2020

7

	<u>Current</u> <u>Year-To Date</u>	<u>2019</u> <u>Year-To Date</u>	<u>Over/</u> <u>(Under)</u>
REVENUES			
Program Revenues:			
Bond and Note Proceeds (Issued by EDA)	\$ -	\$ -	-
Bidding Fees-Plans & Specs	-	-	-
General Revenues:			
Investment Earnings	2,629,857	6,872,835	(4,242,978)
Rental Income	28,000	22,629	5,371
Other Revenue-OPRA	-	2,560	(2,560)
Total Revenues	<u>2,657,857</u>	<u>6,898,024</u>	<u>(4,240,167)</u>
EXPENSES			
Administrative & General Expenses	10,207,216	13,583,008	(3,375,792)
Capital Depreciation	108,679	120,227	(11,548)
School Facilities Project Costs	168,997,434	176,968,138	(7,970,704)
Total Expenses	<u>179,313,329</u>	<u>190,671,373</u>	<u>(11,358,044)</u>
CHANGE IN NET POSITION	(176,655,472)	(183,773,349)	7,117,877
Beginning of Period Net Position	<u>434,338,673</u>	<u>398,016,400</u>	<u>36,322,273</u>
NET POSITION END OF PERIOD	<u>\$ 257,683,201</u>	<u>\$ 214,243,051</u>	<u>\$ 43,440,150</u>

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.