

OTHER AGENCIES

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NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

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

Proposed Redoption: N.J.A.C. 19:38C

Authorized By: New Jersey Schools Development Authority,
Manuel M. DaSilva, Chief Executive Officer (with the approval
of the New Jersey Schools Development Authority Board).

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

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2026-023.

Submit written comments by June 19, 2026, to:

Cecelia Haney, Administrative Practice Officer
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The agency proposal follows:

Summary

The New Jersey Schools Development Authority (“Authority” or
“SDA”) proposes to readopt its rules for procurement of professional
consulting services, codified at N.J.A.C. 19:38C. Pursuant to N.J.S.A.
52:14B-5.1, the rules at N.J.A.C. 19:38C were set to expire on March 4,
2026. As the Authority filed this notice of proposal on March 4, 2026,
the chapter expiration date was extended 180 days to August 31, 2026,
pursuant to N.J.S.A. 52:14B-5.1.c(2). The Authority has reviewed
Chapter 38C and has determined that it remains adequate, reasonable, and
necessary for the purposes for which it was originally promulgated, which
are to establish the requirements, standards, and procedures for the
Authority’s procurement of architects, engineers, land surveyors, and
other professional services consultants.

Subchapter 38C was originally adopted in 2005 by the Authority’s
predecessor entity, the Schools Construction Corporation (SCC), to carry
out its broad statutory mandate pursuant to the Educational Facilities
Construction and Financing Act (EFCFA), P.L. 2000, c. 72 (N.J.S.A.
18A:7G-1 et seq.) (Act) to plan, design, and construct school facilities
projects and effectively administer a schools construction program. The
SCC was abolished in 2007 pursuant to P.L. 2007, c. 137 (N.J.S.A.
52:18A-235 et seq.), which simultaneously created the Authority to
assume all of the functions, powers, and duties of the former SCC.

The rules proposed for redoption comply with N.J.S.A. 52:34-9 et
seq., which governs the procurement of architects, engineers, and land
surveyors by the Authority; implements Executive Order No. 37 (2006),
which sets guidelines for the procurement of professional services by
State authorities; and provides assurance to vendors and other
stakeholders that the SDA procurement process is fair, transparent, and
results in the retention of quality professional services consultants at
competitive prices.

As the Authority has provided a 60-day comment period on this notice
of proposal, this notice is excepted from the rulemaking calendar
requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Chapter 38C consists of 11 subchapters. Subchapter 1 sets forth general
provisions, which include definitions and generally provides that the
SDA’s procurement of professional services consultants, including
architects, engineers, surveyors, and the like, in furtherance of its statutory
mission to effectively administer the schools’ construction program, shall
be governed by the provisions of Chapter 38C.

Subchapter 2, General Requirements, addresses the manner in which
the SDA shall engage a professional services consultant; provides for the
methodologies; identifies the qualitative factors used in evaluating
proposals; and provides the process for the rejection of proposals and the
approval, execution, and termination of agreements.

Subchapter 3, Selection Procedures—Agreements Not Exceeding the
State Bid Threshold Pursuant to N.J.S.A. 52:34-7b, sets forth the
procedural requirements applicable to the procurement of professional
services contracts with compensation not exceeding the State bid
advertisement threshold pursuant to N.J.S.A. 52:34-7b, except for the
procurement of appraisers or title insurance companies, which are
governed by Subchapters 8 and 9 of the rules proposed for redoption.

Subchapter 4 is reserved for future use.

Subchapter 5, Selection Procedures—Agreements Exceeding the State
Bid Threshold, as Adjusted, Pursuant to N.J.S.A. 52:34-7b, sets forth the
procurement procedures that shall apply to agreements for professional
services consultants with compensation exceeding the amount set forth at
N.J.S.A. 52:34-7b, except for the procurement of appraisers or title
insurance companies, which are governed by Subchapters 8 and 9 of the
rules proposed for redoption.

Subchapter 6, Waiver of Advertising, addresses the procurement of a
professional services consultant subject to a waiver of advertising,
pursuant to N.J.S.A. 52:34-10.

Subchapter 7, Selection Procedures—Term Agreements, addresses the
procedures for procurement of term contracts for professional services and
further provides procedures for the issuance of task orders in accordance
with a term agreement.

Subchapter 8, Engagement of Title Insurance Companies, Subchapter
9, Engagement of Appraisers, and Subchapter 10, Engagement of Experts,
govern the Authority’s engagement of title insurance companies,
appraisers, and experts for litigation and real estate transaction support,
respectively.

Subchapter 11, Protests and Hearing Procedures, sets forth provisions
for protests and hearing procedures for objections relating to
procurements of professional services consultants.

Social Impact

The rules proposed for redoption should establish confidence in the
Authority’s ability to ensure that the public’s interest in the Authority’s
selection of professional services consultants is adequately protected and
that the Authority fairly obtains the services of the most qualified
professional services consultants. The rules proposed for redoption will
affect all private architects, engineers, and land surveyors, and other
professional service consultants, such as construction management firms,
appraisers, and title insurance companies, that desire to bid on school
facilities projects constructed pursuant to the Act, as amended, in that the
rules proposed for redoption specify the requirements of advertisement
of proposals, selection procedures, proposal evaluation, and contract
approval and execution.

Economic Impact

The economic impact of the rules proposed for redoption is limited;
the rules proposed for redoption outline the process that will be used by
the Authority in the selection of professional services consultants. This
information should be beneficial to all private firms wishing to provide
architectural, engineering, land surveying, construction management, and
other professional services to the Authority. The rules proposed for
redoption establish a bidding process that entails certain incidental costs
associated with the preparation and submission of bids. Such costs may
include professional staff time associated with preliminary planning, as
well as the costs associated with the production and reproduction of
proposals. The Authority will incur direct and indirect costs for bid
advertisements and the staff and administrative expenses arising from the
preparation of bid requests, the evaluation of the bids received, and the
award of contracts and agreements.

The professional consulting activities are to be funded with the State
share of the eligible costs of a school facilities project, which may be
funded by appropriations made by the Legislature or with State contract
bonds issued by the New Jersey Economic Development Authority,
pursuant to section 25 of the Act. Additional activity in the planning,

architecture, and engineering professions may directly result from the rules, providing Statewide economic benefits in the short term.

Federal Standards Statement

The rules proposed for readoption implement a State statute, specifically P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.). There are no Federal standards or requirements applicable to the rules. A Federal standards analysis, therefore, is not required.

Jobs Impact

The rules proposed for readoption modify the Authority's process for procurement of professional services, and, thus, to the extent the rules proposed for readoption have an effect on jobs, it will be to create jobs in New Jersey, primarily in the consulting and service sectors, rather than eliminate positions. Moreover, the rules proposed for readoption are likely to support job growth to the extent that they may foster participation in the school construction program by a broader class of professional services consultants.

Agriculture Industry Impact

The rules proposed for readoption will have no direct impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption impose some compliance requirements on small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but only for those small businesses that choose to seek to do business with the Authority. Inasmuch as the rules proposed for readoption outline the criteria and procedures the Authority will consider for the selection of professional services consultants, the rules, at N.J.A.C. 19:38C-2.2, specify that professional consultants be prequalified by the Authority, a requirement that is imposed by public contracting provisions set forth at N.J.S.A. 52:34-9.1 et seq. As implemented by the Authority, all firms seeking prequalification will be required to submit audited financial statements, a cost which these firms might not otherwise need to incur. In the interests of financial probity, however, no exemption for small businesses would be warranted. In addition, the rules proposed for readoption impose recordkeeping requirements on winning bidders in compliance with the Authority's contractual document retention provisions, and consistent with requirements of the Office of the State Comptroller for State contractors. Again, in the interests of financial probity, no exemption from these recordkeeping requirements would be warranted for small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption address the requirements and the process for the procurement of professional service consultants and, therefore, will not have an impact on the affordability of housing or evoke a change in the average costs associated with housing in the State of New Jersey.

Smart Growth Development Impact Analysis

The rules proposed for readoption govern the process by which the Authority procures professional services, and, thus, the rules proposed for readoption will have no impact on smart growth development because the scope of the rules proposed for readoption is minimal, and it is extremely unlikely that the rules proposed for readoption would evoke a change in the average price or availability of housing in the State of New Jersey, and it is unlikely that the rules proposed for readoption would in any way affect new construction in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Authority has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:38C.

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NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Procurement of Goods and Services

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

Authorized By: New Jersey Schools Development Authority,
Manuel M. Da Silva, Chief Executive Officer (with the approval
of the New Jersey Schools Development Authority Board).

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

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2026-024.

Submit written comments by June 19, 2026, to:

Cecelia Haney, Administrative Practice Officer
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The agency proposal follows:

Summary

The New Jersey Schools Development Authority ("Authority" or "SDA") proposes to readopt its rules for procurement of goods and services, codified at N.J.A.C. 19:38D. Pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 19:38D were set to expire on March 4, 2026. As the Authority filed this notice of proposal on March 4, 2026, the chapter expiration date was extended 180 days to August 31, 2026, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Authority has reviewed Chapter 38D and has determined that it remains adequate, reasonable, and necessary for the purposes for which it was originally promulgated, which is to establish the requirements, standards, and procedures for the Authority's procurement of goods and services in support of the Authority's school construction program.

Subchapter 38D was originally adopted in 2005 by the Authority's predecessor entity, the Schools Construction Corporation (SCC), to carry out its broad statutory mandate pursuant to the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq. (the Act), to plan, design, and construct school facilities projects and effectively administer a school's construction program. The SCC was abolished in 2007 pursuant to P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., which simultaneously created the Authority to assume all of the functions, powers, and duties of the former SCC.

The rules proposed for readoption implement Executive Order No. 37 (2006), which sets forth guidelines for the procurement of goods and services by State Authorities; and provides assurance to vendors and other stakeholders that the SDA procurement process is fair, transparent, and results in the procurement of goods and services at competitive prices.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Chapter 38D consists of seven subchapters. Subchapter 1 sets forth general provisions, which include definitions and generally provides that the SDA's procurement of goods and services in furtherance of its statutory mission to effectively administer the schools' construction program shall be governed by the provisions of Chapter 38D. Subchapter 2 generally addresses the manner in which the SDA shall procure goods and services; provides requirements for prequalification and moral integrity review, advertisement, evaluation, and selection in procurements for goods and services; sets forth standards for disclosure of submissions and publicity, rejection of proposals, cancellation of procurements, and the approval, execution, and termination of agreements; and specifies required contract terms for records retention and termination.

Subchapter 3 sets forth the procedural requirements applicable to the procurement of goods and services with a value not exceeding the State bid advertisement threshold pursuant to N.J.S.A. 52:34-7.b, including standards for solicitation, evaluation, and selection of proposals, and permits the Authority to waive prequalification requirements for