

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.

(a)

## 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  
New Jersey Schools Development Authority  
PO Box 991  
Trenton, NJ 08625-0991  
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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

procurements pursuant to the bid advertisement threshold. Subchapter 4 sets forth the procedural requirements applicable to the procurement of goods and services with a contract value exceeding the State bid advertisement threshold pursuant to N.J.S.A. 52:34-7.b; including standards and procedures for advertisement, evaluation of proposals, execution of contracts, and confidentiality of submissions and evaluation materials.

Subchapter 5 addresses procedures for procurements subject to a waiver of advertising.

Subchapter 6 sets forth procedures for procurement of term contracts.

Subchapter 7 sets forth provisions for protests and hearing procedures for objections relating to procurements of goods and services.

**Social Impact**

The rules proposed for readoption should establish confidence in the Authority’s ability to ensure that the public’s interest in the Authority’s procurement of goods and services is adequately protected and that the Authority fairly obtains the services of the most qualified vendors. The rules will affect all providers of goods and services that desire to bid on school facilities projects constructed pursuant to the Act, as amended, in that the rules 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 readoption is limited; the rules outline the process that will be used by the Authority in the selection of vendors for the provision of goods or services. This information should be beneficial to all private firms wishing to provide goods or services to the Authority. The rules 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 goods and services procured 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 services sectors may directly result from the rules proposed for readoption, providing obvious Statewide economic benefits in the short term; manufacturing activity may also be positively affected.

**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 goods and services, and, thus, to the extent the rules have an effect on jobs, it will be to create jobs in New Jersey, primarily in the

service sector, rather than eliminate positions. Moreover, the rules are likely to support job growth to the extent that they may foster participation in the school construction program by a broader class of vendors.

**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. The rules outline the criteria and procedures the Authority will consider for the selection of vendors of goods and services. The rules, at N.J.A.C. 19:38D-2.2, specify that vendors may be required to be prequalified by the Authority. 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 specify recordkeeping requirements imposed 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 goods and services and, therefore, will not have an impact on the affordability of housing or evoke a change in the average cost of 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 goods and services, and, thus, the rules will have no impact on smart growth development because the scope of the rules are minimal, and because it is extremely unlikely that the rules 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. 19:38D.