

Procurement Update

Presenter: Michele E. Meade, Municipal Technical Advisor and
Procurement Specialist

NJSLOM - March 19, 2019



Topics:

Prompt Payment Law -
LFN 2019-02

National Cooperative Contracts -
LFN 2012-10

Changed conditions for local public works
contracts

E-Procurement

Topics:

Prompt Payment Law

LFN 2019-02

National Cooperative Contracts

LFN 2012-10

Changed conditions for local public works contracts

E-Procurement

Prompt Payment Law LFN 2019-02

Key Factors to Know:

- ▶ Effective February 1, 2019
- ▶ For goods and services
- ▶ Any dollar amount
- ▶ Doesn't change prompt payment for construction contracts - LFN 2006-21
- ▶ Most goods and services vendors covered, even nonprofits
- ▶ Doesn't apply to public utilities, government entities or national co-op contracts
- ▶ Goods or services received, then payment 60 days from receipt of properly executed invoice for municipal; 90 days for school districts
- ▶ Interest rate set by State Treasurer - 2% in SFY 2019
- ▶ All Governing Body meetings must allow for approval of bills

Prompt Payment Law - “Properly executed invoice”

An invoice containing sufficient detail for payment to be made

Includes bills, vouchers, warrants or whatever term is used to describe vendor request for payment

Includes a claimant certification (typically on a purchase order) IF the contracting unit requires this

Prompt Payment Law - Deadlines Table

<i>Contracting Unit</i>	<i>If Payment Date Is Specified in the Contract</i>	<i>If Payment Date Is Not Specified in the Contract¹</i>	<i>Deadline for Separate Payment of Interest to Vendor (Late Payment)</i>
Local Public Contracts Law	60 calendar days from date specified in the contract.	The later of: <ul style="list-style-type: none"> • 60 calendar days from receipt of properly executed invoice; or • 60 calendar days from the date the goods or services were received (as certified by an officer or duly designated employee) 	within 30 calendar days of the date the contracting unit made the late payment
Public School Contracts Law	90 calendar days from date specified in the contract.	The later of: <ul style="list-style-type: none"> • 90 calendar days from receipt of properly executed invoice; or • 90 calendar days from the date the goods or services were received (as certified by an officer or duly designated employee) 	within 30 calendar days of the date the contracting unit made the late payment

Prompt Payment Law - Tips

- “Unless otherwise specified in the contract”
 - If no payment date in contract, 60 days from receipt of goods or services
 - If a payment date in the contract, payment is due 60 days from the relevant contract event - e.g. receipt of goods and properly executed invoice, acceptance of product, acceptance of report, acceptance of project, payment milestone event etc.
 - A purchase order is a contract
- You can put a difference date in the contract other than 60 or 90. Must be in the contract so contractor is aware of terms before accepting the job.
- “Date goods and services are received”
 - Date received should be certified by a duly designated employee - put a process in place
- Look for a revision to the Local Finance Notice soon to clarify!



Topics:

Prompt Payment Law

LFN 2019-02

National Cooperative Contracts

LFN 2012-10

Changed conditions for local public works contracts

E-Procurement

National Cooperative Contracts LFN 2012-10

Key Reminders:

- **READ the LFN - and the attached User's Guide to Using National Cooperative Contracts**
- **Check with Division of Purchase and Property to determine if the contract was awarded as a state contract and is open to local governments.**
 - If so, don't have to use provisions of National Cooperative Contracts, just use as a state contract



Purchasing Agent's Guide to Using National Cooperative Contracts

Once a decision is reached to utilize a national cooperative contract where the amount is over the contracting unit's bid threshold, the purchasing agent should take the following steps: (Refer to Local Finance Notice 2012-10 for guidance and forms).

1. Conduct due diligence on a national contract to determine if the contract will result in cost savings after all factors, including charges for service, material and delivery, have been considered. Ensure there is documentation backing up this determination.
Considerations to use a national contract can include:
 - Economy versus efficiency
 - Comparison of the national contract pricing to the current State contract price, to other national cooperative contracts, to comparable goods in other cooperatives, and any existing contracting unit contract
 - Savings of time in avoiding the time and cost of a separate procurement
 - Any record of satisfactory vendor performance
 - Administrative cost factors required to participate in the national cooperative agreement
 - Other factors such as rebates offered and unique needs to a particular situation
2. Review any national contract under consideration to determine if it meets New Jersey standards:

National Cooperative Contracts LFN 2012-10

Key Reminders:

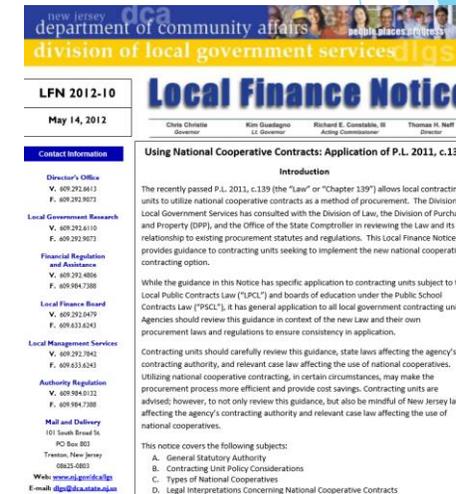
- **National cooperative contracts are still subject to procurement laws and rules that apply to other contracts**
 - Governing body approval over pay-to-play or bid thresholds
 - Affirmative action, statement of ownership, BRC, political disclosure, etc.
 - National co-op contract must have been awarded through a competitive process
 - Can only use national co-op contracts that were solicited by another “contracting unit” not a non-profit or private organization
 - Original bid must have been advertised as a national contract and not a local contract for the issuing agency
 - Publish a notice of intent to award - sample ad in LFN

The screenshot shows the header of the document with the NJ Department of Community Affairs logo and the title "Local Finance Notice" dated May 14, 2012. It lists the Governor, Lt. Governor, and Acting Commissioner. The main heading is "Using National Cooperative Contracts: Application of P.L. 2011, c.139". The introduction states that the recently passed P.L. 2011, c.139 allows local contracting units to utilize national cooperative contracts. It mentions that the Division of Local Government Services has consulted with the Division of Law, the Division of Purchase and Property (DPP), and the Office of the State Comptroller. The notice provides guidance to contracting units seeking to implement the new national cooperative contracting option. It also notes that while the guidance has specific application to contracting units subject to the Local Public Contracts Law ("LPLC") and boards of education under the Public School Contracts Law ("PSCCL"), it has general application to all local government contracting units. Agencies should review this guidance in context of the new Law and their own procurement laws and regulations to ensure consistency in application. Contracting units should carefully review this guidance, state laws affecting the agency's contracting authority, and relevant case law affecting the use of national cooperatives. Utilizing national cooperative contracting, in certain circumstances, may make the procurement process more efficient and provide cost savings. Contracting units are advised; however, to not only review this guidance, but also be mindful of New Jersey laws affecting the agency's contracting authority and relevant case law affecting the use of national cooperatives. The notice covers the following subjects: A. General Statutory Authority, B. Contracting Unit Policy Considerations, C. Types of National Cooperatives, D. Legal Interpretations Concerning National Cooperative Contracts.

National Cooperative Contracts LFN 2012-10

Key Reminders:

- **Cost savings determination**
 - Compare to state contract pricing
 - Compare to local co-op contract pricing
 - Compare to recent contracts from other public entities
 - Cost avoidance of doing your own procurement
 - Lower minimum purchase amounts at a lower price - no storage
 - Are there administrative costs to participate?
 - Shipping costs
 - Rebates



Topics:

Prompt Payment Law

LFN 2019-02

National Cooperative Contracts

LFN 2012-10

Changed conditions for local public works contracts

E-Procurement

Changed Conditions for local public works contracts - *Coming Soon* - Amendments to NJAC 5:30-11 - Change Orders

Definitions of:

- Bid proposal quantity
- Change in quantity of work
- Changed conditions
- Construction contract
- Differing site conditions
- Material change or material change in character of work
- Pay item



Here's what is being contemplated for the regulations

Four types of changed conditions:

1. Differing site conditions
2. Suspension of work
3. Material change
4. Change in quantity

General process for “differing site conditions”

Contractor notices “changed site condition”

- Work is stopped in impacted area
- Contractor must provide written certification to contracting unit chief executive officer

Contractor written certification

- Explanation of factual circumstances, costs, delays
- Certified statement from contractor expert - engineer, architect etc
- Fair and equitable adjustment to price and/or contract completion date - can be a contract increase or decrease

CEO investigates

- Are differing site conditions present?
- Negotiate a fair and equitable settlement with contractor
- Basis of settlement corroborated by contracting unit expert - engineer, architect etc.
- Written report to governing body

Governing Body

- Review report
- Determine whether a change order is required
- If agree, adopt a change order resolution and enter into amendatory contract
- If disagree, designate official to negotiate

General process for “suspension of work”

Contracting unit expects to be delayed 10 or more days

- Provide written notice to contractor
- If no fault of contractor, they are entitled to compensation and/or a time extension

Contractor written certification

- Within 10 calendar days of notice from contracting unit
- Explanation of factual circumstances, costs, delays
- Certified statement from contractor expert - engineer, architect etc
- Fair and equitable adjustment to price and/or contract completion date
- Failure to provide written cert may waive claim

CEO investigates

- Is contractor entitled to additional compensation and/or time?
- May negotiate a fair and equitable settlement with contractor
- Basis of settlement corroborated by contracting unit expert - engineer, architect etc.
- Written report to governing body with conclusions

Governing Body

- Review report
- Determine whether contractor is entitled to additional compensation and/or time
- If agree, adopt a change order resolution and enter into amendatory contract
- If disagree, designate official to negotiate

General process for “material change”

Contractor believes there is a material change

- Provide written notice to contracting unit
- Contractor continues to work on project not subject to material change

Contractor written certification

- Within 10 calendar days of notice from contracting unit
- Explanation of factual circumstances, costs, delays
- Certified statement from contractor expert - engineer, architect etc
- Fair and equitable adjustment to price and/or contract completion date
- Failure to provide written cert may waive claim

CEO investigates

- Is contractor entitled to additional compensation and/or time?
- May negotiate with purpose to reduce the fair and equitable settlement sought
- Basis of settlement corroborated by contracting unit expert - engineer, architect etc.
- Written report to governing body with conclusions on whether this constitutes a change order

Governing Body

- Review report
- Determine whether contractor is entitled to additional compensation and/or time
- If agree, adopt a change order resolution and enter into amendatory contract
- If disagree, designate official to negotiate

General process for “change in quantity”

Contracting unit may increase or decrease quantity

- 20% or less is minor change
- 20% or more is major change

Minor change

- Contracting unit pays for quantity change at bid price of item

Major increase

- Contracting unit or contractor may request to negotiate with purpose to reduce the fair and equitable settlement sought
- If no agreement, contracting unit shall pay actual costs plus additional 10% for overhead and 10% for profit
- Unless otherwise specified in bid specs

Major decrease

- Contracting unit or contractor may request to negotiate with purpose to reduce the fair and equitable settlement sought
- If no agreement, contracting unit shall pay actual costs plus additional 10% for overhead and 10% for profit
- Unless otherwise specified in bid specs

Topics:

Prompt Payment Law

LFN 2019-02

National Cooperative Contracts

LFN 2012-10

Changed conditions for local public works contracts

E-Procurement

Changing the way we do procurement!

▶ That was then....



▶ This is now....

NJ Home | Services A to Z | Departments/Agencies| FAQs
 NJDOT Site Index | Search: NJ Home NJDOT

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
 Phil Murphy, Governor | Sheila Oliver, Lieutenant Governor

Disclaimer [Select Language](#)

[NJDOT Home](#) | [About NJDOT](#) | [NJcommuter.com](#) | [Community Programs](#) | [Reference / Links](#)
[Engineering](#) | [In the Works](#) | [Capital Program](#) | [Freight, Air and Water](#) | [Doing Business](#)

Procurement

Professional Services

Phone: [609-963-2324](tel:609-963-2324)
[Email](#)

Notice: Interested Intelligent Transportation Systems (ITS) vendors can submit responses to current ITS Technology Product Presentation RFI's by accessing the information through the following [link](#).

Professional Services
Solicitations for Technical Proposals

The New Jersey Department of Transportation, Bureau of Professional Services, has converted to an electronic technical proposal submission process using Bid Express through Info Tech.

To view On-Time Submissions, click on the TP Number, sign into [Bid Express](#), navigate to the correct NJDOT TP and scroll down to the "Apparent Bids" Section

TP Number	Posting Date	Project Type	Project Description	Status	Due Date
TP-246	3/1/19	Construction Inspection C-6 Level A	(2) - Maintenance Job Order Contracting (JOC) Bridge Repair Agreements, 2018 A-B Questions and Answers	Advertised	3/26/19
TP-245	3/1/19	Construction Inspection C-6 Level A	Route 295, Route 195/29 to Route 1 Cont. No. 060143780 Questions and Answers	Advertised	3/22/19

E-Procurement- *Regulations Coming Soon*

▶ Currently e-procurement pilot program

- ▶ Limited oversight
- ▶ List of vendors on LGS website

▶ Local Unit Electronic Procurement Act

- ▶ Permissive use of e-procurement
- ▶ In the process of promulgating regulations

° Approved software provided for local contracting units to receive online bids and quotes:

- www.bidmanager.com (InfoBid)
- www.njbid.net
- www.bidexpress.com
- www.bidsync.com
- www.h2bid.com
- www.gabelassociates.com
- www.ecsourcinggroup.com
- www.iptbybidnet.com
- www.commercialutility.com
- www.procurexinc.com
- www.concord-engineering.com
- www.taylorcc.com
- www.ausenergy.com
- www.mresc.k12.nj.us
- www.goodenergy.com
- www.proportalus.com
- www.goldstar-energy.com
- www.bidtron.com
- www.energymarketexchange.com
- www.ebridgeglobal.com
- www.periscopeholdings.com

What is E-Procurement under the new law?

Use of computer technology and the Internet for:

Advertising

Submission of public bids

Providing notice of revisions or addenda

Receipt of proposals & quotes

Competitive contracting

Reverse auctions

Can be used for:

Goods and services

Sale of personal property

Public Works construction

Other public procurement related activities and services

Key components of law:



Converting law, principals, safeguards & procedures related to sealed bidding to an e-procurement environment

Protect against collusion and bid rigging
Ensure privacy and security of electronic transmissions



Published advertisements of bids will not be eliminated



Contracts requiring a seal and signature of professional may be included in electronic file as long as original document contains physical seal and signature

NJDOT is using E-Procurement!

NJ Home | Services A to Z | Departments/Agencies | FAQs
NJDOT Site Index | Search: NJ Home NJDOT

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION
Phil Murphy, Governor | Sheila Oliver, Lieutenant Governor

Disclaimer Select Language

[NJDOT Home](#) [About NJDOT](#) [NJcommuter.com](#) [Community Programs](#) [Reference / Links](#)
[Engineering](#) [In the Works](#) [Capital Program](#) [Freight, Air and Water](#) [Doing Business](#)

Procurement
Code of Ethics
Notices
Construction Services
Prequalification
Subcontracting
Current Advertised Projects
Bid Openings
Awarded Projects
Planned Advertisements
Vendor Help

Division of Procurement

Construction Services
1035 Parkway Avenue
P.O. Box 600
Trenton, NJ 08625-0600
Phone: [609.963.2325](tel:609.963.2325) Fax: 609.530.2238
[E-mail](#)

Overview

Construction Services information provided here is for use by contractors seeking to work on New Jersey Department of Transportation construction and operations projects. This information includes:

- ▶ Notices
- ▶ Contractor Prequalification
- ▶ Current Advertised Projects
- ▶ Bid Openings

Bid dates are subject to change due to contract addenda.
Thursday, March 21, 2019
Route 287, South Street (CR 601) to Littleton Road (CR 630), Contract No. 035183320, Pavement Preservation Project, Morristown, Hanover and Parsippany-Troy Hills Townships, Morris County; Federal Project No: NHP-0287(353), UPC No: 183320, PE No: 1419536, CE No: 1419537, DP No: 18141.
Route 1, Forrestal Road to Wynwood Drive / Whispering Woods Boulevard, ITS, Contract No. 013176110, Township of Plainsboro, Township of South Brunswick, Middlesex County; Federal Project No: NHP-0001(324), UPC No: 133060, PE No: N/A, CE No: 1201557, DP No: 18601.
Tuesday, March 26, 2019
Maintenance Roadway Repair Contract North, Sub-Region N-1, Contract No. N108, U.S. 22 WB, and US-206 NB & SB, in Warren and Sussex Counties; 100% State, PE No: 2622599, CE No: 2622602, DP No: 19401.
Traffic Signal Relamping North Contract - 2019, Various Locations, Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union and Warren Counties; 100% State, PE No: 2622641, CE No: 2622644, DP No: 19437.
Thursday, March 28, 2019
Route 130 Hollywood Avenue (CR 618), Contract No. 002950469, Intersection Improvements, Township of Carneys Point, Salem County; 100% State, UPC No: 950569, PE No: 1710509, CE No: 1710514, DP No: 19104.

NJ DPP is using E-Procurement!



Browse by Category

- [Complete Registration](#)
Complete registration here to begin using NJSTART. Vendors, please read this disclaimer prior to completing registration.
- [Open Bids](#)
Browse open bid opportunities.
- [Active Contracts](#)
Browse active Contracts/Blankets.
- [Contract & Bid Search](#)
Search for Bids and active Contracts/Blankets.
- [Registered Vendor Search](#)
Search for registered vendors.

Want to do
business
with the
State of
New Jersey?



**ATTENTION
VENDORS!**

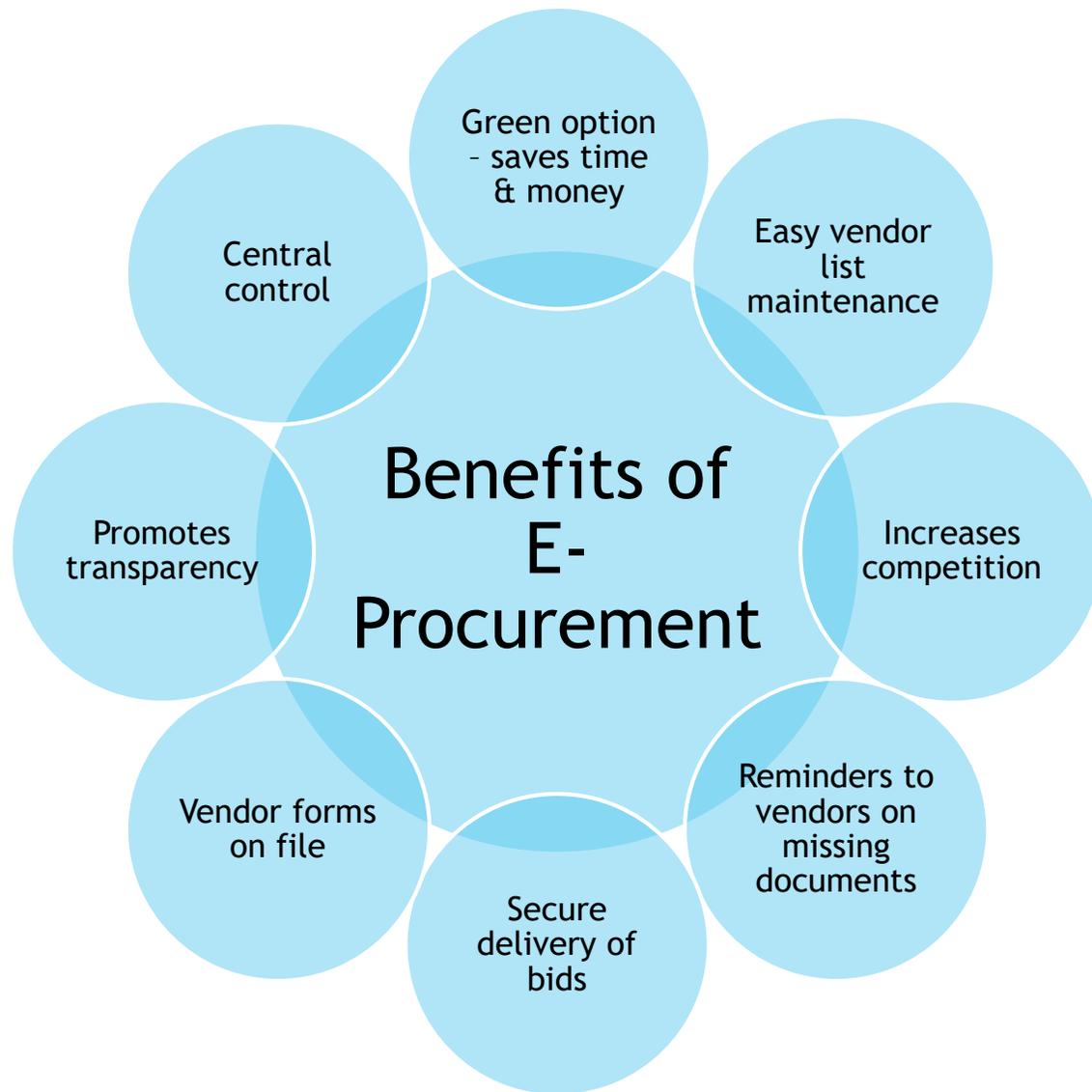
E-Procurement Pricing

Contracting Unit pays:

- Buys platform
- Pays through software as a service

Vendor pays:

- Free to view and print specifications for paper submission
- Flat fee per bid
- Monthly subscription to service with unlimited bids



Procurement Support

- ▶ Resources:
<https://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html>
- ▶ Email: LPCL@dca.nj.gov
- ▶ Phone: 609-292-6613

