

## CHAPTER 4

**AN ACT** concerning the due date of bids for local public contracts and public school contracts and amending P.L.1971, c.198 and N.J.S.18A:18A-21.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. Section 23 of P.L.1971, c.198 (C.40A:11-23) is amended to read as follows:

C.40A:11-23 Advertisements for bids; bids; general requirements.

23. a. All advertisements for bids shall be published in an official newspaper of the contracting unit sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date; except that all advertisements for bids on contracts for the collection and disposal of municipal solid waste shall be published in an official newspaper of the contracting unit circulating in the county or municipality, and in at least one newspaper of general circulation published in the State, sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but not less than 60 days prior to that date. For all contracts, the date fixed for receiving the bids shall not fall on a Monday, or any day directly following a State or federal holiday.

b. The advertisement shall designate the manner of submitting and the method of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the contracting unit shall be sealed and shall only be opened for examination at such time and place as all bids received are unsealed and announced. At such time and place the contracting agent of the contracting unit shall publicly receive the bids, and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents, who are then and there present, and shall also make proper record of the prices and terms, upon the minutes of the governing body, if the award is to be made by the governing body of the contracting unit, or in a book kept for that purpose, if the award is to be made by other than the governing body, and in such latter case it shall be reported to the governing body of the contracting unit for its action thereon, when such action thereon is required. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

1) For all contracts except those for construction work and municipal solid waste collection and disposal service, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the contracting unit and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of

transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

3) For municipal solid waste collection and disposal contracts, notice shall be published in an official newspaper of the contracting unit and in at least one newspaper of general circulation published in the State no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids.

d. Failure of the contracting unit to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the contracting unit from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the contracting unit shall not be considered failure by the contracting unit to provide notice.

2. N.J.S.18A:18A-21 is amended to read as follows:

Advertisement for bids; bids; general requirements; notice of revisions.

18A:18A-21. a. Except as provided in section 5 of P.L.1985, c.490 (C.18A:18A-55), all advertisements for bids shall be published in an official newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding, but in no event less than 10 days prior to such date. For all contracts, the date fixed for receiving the bids shall not fall on a Monday, or any day directly following a State or federal holiday.

b. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the board of education shall be sealed and shall be opened only for examination at such time and place as all bids received are unsealed and announced. At such time and place the purchasing agent of the board of education shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made in the minutes of the board. No bids shall be received after the time designated in the advertisement.

c. Notice of revisions or addenda to advertisements or bid documents shall be provided as follows:

(1) For all contracts except those for construction work, notice shall be published no later than seven days, Saturdays, Sundays, and holidays excepted, prior to the date for acceptance of bids, in an official newspaper of the board of education and be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender.

(2) For all contracts for construction work, notice shall be provided no later than seven days, Saturdays, Sundays, or holidays excepted, prior to the date for acceptance of bids, to any person who has submitted a bid or who has received a bid package in any of the following ways: i) in writing by certified mail or ii) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of

transmission and that the transmission was successful or iii) by a delivery service that provides certification of delivery to the sender.

d. Failure of the board of education to advertise for the receipt of bids or to provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the board of education from accepting the bids and require the readvertisement for bids pursuant to subsection a. of this section. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the board of education shall not be considered failure by the board of education to provide notice.

3. This act shall take effect immediately.

Approved January 17, 2007.