

North Jersey NIGP Chapter #7

Chartered October 26, 1977

President: *James Jorgensen*

Treasurer/Membership: *Denise Piszkowski*

Vice President: *Apryl L. Roach*

Secretary: *Simona Casian-Sirbu*

**Minutes
Regular Meeting
June 16, 2022**

The meeting was called to order at 10:15 am by Executive Board Member Francis Decibus.

After the flag salute, a moment of silence was observed. Francis reminded everyone about the sign in procedures and retrieval of CEU certificates, and expressed his contentment to be able to see old members as well as new members in person after more than two years. Self-introductions were made by all attendees.

Francis introduced the representatives of SHI International, which hosted us in their beautiful facility, John Minnella, John Turba and Nick Sgroi, and thanked them for their hospitality.

John Minnella addressed the group and thanked Jim for allowing him the opportunity to host the group, and wished Jim a speedy recovery.

Denise Piszkowski/ Treasurer provided the Treasurer report and stated that there has not been too much activity on the account, except the purchase of a tablecloth for the table set up at the Rutgers Conference and some giveaways. Members will not be charged any dues for 2022, but will start collecting them starting 2023. The association's bank account currently had a balance of \$14,110.06.

Motions were introduced to accept the Treasurer's report and the previous meeting's minutes which had been posted on the website. The motions were approved.

Guest Speakers

Bonnie Brooks, RMC, CMR, Community Service Officer DCA/DLGS

Ms. Brooks provided a short description of her experience in Municipal Government in which she has been since 2005, until 2019 when she started working in the Certification unit of the

DLGS, alongside Shannon Hudack, where some of her responsibilities include certificate renewals, new applications reviews, proctoring of exams, review of exemption applications, and acting extensions or terms,

Ms. Brooks discussed some of the changes that are upcoming and some of the changes that have taken effect in the last two years in reference to certificate renewals. She discussed LFN 13-2020, from May 2020, <https://www.nj.gov/dca/divisions/dlgs/lfns/20/2020-13.pdf>, which allows for a one-year, one-time extension to everyone's license. For example, a QPA license whose renewal is mandatory every three years, is now allowed a one time one-year extension. Same goes with all other professions, which are regulated by these requirements, as well as appointments for interim, acting, temporary appointments which do not possess the required certification.

Applications for the Certifications, either new or renewals are available on the division's website at: <https://www.nj.gov/dca/divisions/dlgs/programs/certification.html>

Ms. Brooks also discussed the upcoming proposed regulation, which is expected to be approved in a month or so. This would allow a Certificate holder, that did not need an extension and who accrued credits beyond the amount needed for renewal, to carry up to half of the contact hours needed to renew their license into their next renewal cycle. Credits that can be used as a "carry over" cannot be duplicated. The Division will be checking to ensure that the credits used for the renewal have not been used in the previous renewal cycle. As soon as this is approved, an LFN will be issued and distributed to officials via the State's "EGG" Notices. Sign ups for people that do not receive the notices, can be requested by e-mailing: EGG@dca.nj.gov

This new proposed regulation, is also set to up the amount of CEU's needed by the QPA's for their renewal from 20 credit hours to 25 credit hours. It will also increase the requirements for the Public Procurement Procedures category from 2 credit hour to 5 credit hours. There will also be a new optional category titled "Public Works". There will not be a requirement to get any credits in the category, it will be similar to the IT category.

Ms. Brooks reminded everyone that the division is always accepting early renewal applications, for those that have the required credits and would like to do so before the new regulations take effect.

Michele Meade, MPA, QPA, Purchasing & Procurement Specialist, DCA/DLGS

Ms. Meade gave a presentation on the new "Design Built Regulations" which are now in effect.

Before she began her presentation, Ms. Mead explained to everyone that her presentation would qualify under the new proposed "Public Works" category for credits, were the new regulations in effect as of that day.

She went on to explain that the Division is very focused on the topic of Public Works compliance, as there have been a lot of issues in reference to this topic, hence all of the recent directives that have been issued by the division on this topic and the upcoming changes that are coming to the QPA license renewal requirements.

The new “Design Built Law”, took effect in 2021, as PL. 2021, c. 71, and it created new sections to the Local Public Contracts Law. (C.40A:11-53 to 40A:11-60). A text of the law can be found at: https://pub.njleg.state.nj.us/Bills/2020/PL21/71_.PDF .

The new process was implemented in an attempt to streamline the procurement process for large Public Works projects, and it was primarily based on the School Development Authority’s Design Built rules, because they already had a working process in place. While not all of the regulations in their rules applied to the Local Public Contract Law and the Public School Contracts Law environment, some changes had to be made to ensure that the rules are compliant to the aforementioned.

The rules are currently in effect and the process can be used, should an agency want to; even though these rules have been adopted under a special adoption, and the division is currently proposing the final rules, the process can be used based on the posted rules. A comment period is in effect and will close on September 3rd.

Ms. Mead went on to summarize some of the key components of the new Design Built Law, and advised everyone that she will make available a copy of her presentation to the Association, so it can be posted on the website for easy referencing.

Design build is condensing the design bid-built process into one project, which means that an agency would not have to separate the project by hiring a professional to design the project then go through the bidding process, but rather hire a company to take care of both. This project will allow an agency to hire someone to design and do the construction from the start to end.

Ms. Mead emphasized that definitions are key to this process and advised everyone to review them as they are of the outermost importance. There are about 12 definitions that pertain to the new design built law. Design built can be used for any type of Public Works project as defined in 40A:11-2, but only applies to projects that are estimated to exceed 5 million, and under no circumstances shall be used for anything less than that.

The first step of the process is by the Governing Body approving a resolution to authorize the design build for the project; the basis of design build is to create efficiencies and savings, so the resolution will have this determination outlined in it.

The design build is a two phase process, the RFQ phase and the RFP phase.

Some of the first steps to take when starting the design built process are as follows:

- The contracting unit will hire a design professional, or use their design official to create a general frame work, to help construct the RFQ and RFP, which will have enough information to supply the potential design builders so they will be interested in responding to the RFQ and the RPF. The design professional will also help you evaluate the process and should be part of the technical review committee.
- The contracting unit, may want to hire a Project Manager, which will oversee the project in the same manner that it is done on a regular construction project.
- The contracting unit will have to establish a technical review committee, which will evaluate the RFQ's and the RFP's.
- There are some people which are required to be part of the committee. Those are, the QPA and the Design Professional or Official, and Project Manager. Other officials that could be part of the committee may be the Manager/Administrator, Town Attorney, CFO. Just like competitive contract, these officials must file a no conflict affidavit to be part of the committee.
- The time for advertisement for the RFQ phase is 30 days.

These contracts, depending on the project estimate, will need to comply with the OSC notification requirements, post award if the project is valued under 12.5 mil, and pre-award notification if the project is valued over 12.5 mil.

The RFQ (phase 1) process for these projects will include the following:

- sufficient information to allow bidders to prepare an informed statement of qualifications as it relates to the project. This information will give your project some scale and scope of what the design contractors will have to do; if budget parameters exist or any schedule or delivery requirements, they should be noted in the RFQ;
- the contracting unit may also utilize DPMC's classifications, and made part of the RFQ;
- the evaluation criteria will have to be made part of the RFQ; examples of criteria are listed in the law, but more criteria can be adding to suit the project at hand;
- the law says that a minimum of 2 and a maximum of 6 contractors can be pre-qualified for this type of project, so, if a contracting unit has a set number they are looking to prequalify, that information can be shared in the RFQ;
- if set asides programs exist in the organization, this information should be shared in the RFQ;
- there is also a provision in the law that allows for a stipend to be provided to the non-winning designs, not to exceed 3% of their proposed design build project cost; this stipend can only be provided to the contractors that submit a responsive, but unsuccessful response to the RFP; the intent of this stipend is to incentivize the contractors in participating in the process and to create competition; if a stipend will be offered, it should be noted in the RFQ documents;

- the RFQ needs to be created to ensure free, fair and open competition, and the specifications requirements are very similar to 40A:11-13 (the specification section of LPCL); they can not include any requirements or limitations that are not related to the project purpose of function;
- minimum requirements for the RFQ submittal will include the organizational chart of the company showing who is going to be responsible for what during the project, a list of all current and past projects of similar scope, if the company had any determination of prior negative experience, with the contracting unit as well as other contracting units, any certifications they have with members of their team, their safety experience modification rating and what the company is doing to promote workforce diversity as required by law; if the contracting unit has set aside requirements, the contractor will have to respond to that; if the contracting unit requires a project labor agreement they will have to respond to that; the contractor will also have to provide certifications that they are not barred from being awarded contracts under the State Debarment Law, as well as the Federal Debarment Law;
- prior negative experience can be considered if such exist with a different contracting unit, not only with the organization awarding this project;
- the technical committee will review the statement submitted by the proposers, as well as the mandatory documentation to be submitted with their RFQ responses, and will select no fewer than two, no more than six as the pre-qualified bidders that will advance to phase two of the process, the RFP.

The RFP (phase II) of the process will only apply to the prequalified bidders, and the RFP will be issued only to those vendors, with 14 days advance notice to submit their proposals. Just like LPCL, the proposals can not be received on a Monday or a day following a State or Federal Holiday.

The RFP should be design in the same way as the RFQ, to promote free, fair and open competition, and not illegally discriminate against anyone who is otherwise qualified.

The RFP should include some of the following:

- the technical and price and proposal forms;
- the terms and conditions;
- instructions to bidders;
- evaluation factor criteria;
- what are the drawings and specifications that they need to provide with their responses;
- what are the site requirements (parking, lighting, equipment, landscaping, etc);
- any description of physical relationships between these site requirements;
- any engineering, architectural or environmental report available for the site;
- the budget limits for the project;

- whose responsibility it will be to secure any permits required for the project;
- insurance and bonding guarantees requirements;
- the schedule for starting and completing the project;
- the amount of stipend, if such will be provided
- if traffic control will be needed for the project;
- a checklist just like in the regular bidding process;
- acknowledgement of receipt of addenda;

This process allows for a mandatory pre-proposal conference to take place, unlike the regular bidding, where the pre-bid conference cannot be mandatory.

The contracting unit can also request an interview with the proposers, to ask questions, to make sure that the key aspects of the proposals will be addressed.

Once the RFP's are received, the technical review committee will review the proposals submitted, to ensure that the submittals are compliant with all of the requirement of the RFP, and evaluate them based on the pre-established criteria. The committee will have to consider minimum two of the proposal in their review. Once that has been established then the recommendation can be made to the Governing Body for their approval or action. The Governing Body can accept the recommendation without any changes, or they can authorize further negotiations, and the process for negotiations is outlined in the rules. If there is no agreement that results after negotiations, then the next highest ranked bidder can be considered, and committee can start the same process with them, or the Governing Body can reject all proposals.

The Design Built process has a post award evaluation component to it. The contracting unit will have to perform an ongoing evaluation of the project, which will provide the contracting unit with information that can be used in the future by your own unit or other contracting units. A scoring system is made part of the law for this purpose.

Ms. Mead went on to talk about other Public Works related topics. She discussed the LFN 2021-20, and advised that anyone get a copy of it, as it includes all things related to Public Works contracting. The purpose of this LFN is to provide the Governing units with all the information needed as it relates to PW contracting <https://www.nj.gov/dca/divisions/dlgs/lfns/21/2021-20.pdf> The Department of Labor and DLGS, as the DOL is being much more stringent in ensuring that the prevailing wage regulations are being followed. The LFN has links to all of the laws pertaining to Public Works Contracting. The DOL is very focused on ensuring that certified payrolls and manning reports are kept in files with the contract. The LFN also addresses the EEO and AA requirements in contracting, as well as information about the Project Labor Agreement Law, which was changed in the middle of 2021.

Ms. Mead reminded everyone that National Cooperative Contracts cannot be utilized for PW projects. LFN 2012-10 <https://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-10.pdf>, provides all the information pertaining to the use of National Co-ops.

The new Russia-Belarus Law which was signed into law and is in effect, requires the Department of Treasury to develop a list of entities and persons who we cannot enter into a contract or renew a contract with. Once the list is promulgated an LFN will be issued by the Division. The law applies also to banking services, insurance services, redevelopers agreements as well as PILOT programs. Unlike the Iran Law which has no expiration, the Russia-Belarus Law can be rescinded as soon as the President of the United States pulls the Executive Order currently in effect.

P.L.2021 c. 301, https://pub.njleg.gov/bills/2020/AL21/301_.HTM which recently went into effect, requires a bidder that submits a bid for a Public Works project, and whose lowest bid is 10% or more less than the next lowest bidder, to submit prior to the award of the contract a statement that prevailing wages will be paid to the workers during the term of the contract. If contractor fails to submit the required certification, then the contract can be awarded to the next lowest bidder, and the same scenario applies in reference to the certification requirement if that bid is 10% less or more than the next bidder. If only one bid received, then this certification will not be necessary.

Olga Chaban, Senior Coordinator- Professional Continuing Education and Training- Rutgers University-Center for Government Service

Ms. Chaban gave an overview of the current courses available from Rutgers, and advise that the courses will remain on-line for the summer session, and most likely will continue that way or at most will follow a hybrid format for the foreseeable future. Five of the courses aligned for summer are continuing education courses.

The courses information is entirely online, at <https://cgs.rutgers.edu/programs/publicpurchasing>. Brochures will no longer be mailed.

Ms. Chaban gave a summary of the 52nd Public Purchasing forum, and advised that 95% of the surveys submitted were very favorable, and that all the 14 sessions offered received very good reviews. There were over 200 attendees for this years conference, and Ms. Chaban thanked them, for their presence. Next years' forums does not have a date yet, but as per previous forums, the tentative schedule will be for the end of April beginning of May 2023. The "save the date" postcards will be mailed out as soon as the date is set.

Rutgers is looking to update the curriculum for the upcoming courses, and it is working with the State on this; it is the intent of Rutgers to have some of theses updates made part of the Fall courses.

Ms. Chaban advised that Rutgers is always looking for instructors, and asked that anyone interested in teaching, that possesses the experience and wants to share in the knowledge with prospective Purchasing Officials, to reach out to her office.

John Minnella, District Manager- NJ and NY Government for SHI International

Mr. Minnella has provided information about current State and Cooperative contracts that SHI International currently has available for contracting units, with a focus on software as a service (SaaS), the cloud technology and how it has changed the way Government does business as a result of the pandemic.

He touched upon the various virtual meeting software, that have become part of the day to day operations of the Government during the pandemic, and that helped provide a continuation of day to day services of an organization.

It has also brought about various challenges and cybersecurity concerns which came with the cloud adoption.

Most of the software providers are now moving from a perpetual license which in the past allowed a user to make use of a program indefinitely based on a one-time fee/payment, to a yearly subscription which will bring challenges to the operating expenditures of an agency.

These services are available for procurement under the State Contract, through the NASPO ValuePoint cloud solutions contract, New Jersey Cooperative Purchasing Alliance as well as Sourcewell.

NJ State Contract is valid until 2026 and it allows for infrastructure, platform and software as a service, as it allows for value added and technical help that ranges from customization and consultation. <https://www.njstart.gov/bsa/external/advsearch/searchContract.sdo>

The New Jersey Cooperative Purchasing Alliance (NJCPA), in Bergen County, is a new contract which recently went into effect and it is valid until 2024. This contract is broader in scope and it also encompasses some of the future projected needs and emerging technology in the IT world as virtual reality, augmented reality as well as cybersecurity. <https://co-bergen-nj.bonfirehub.com/portal/?tab=publicContracts>

The contract awarded by the National Co-op Sourcewell is valid until October 2023, and can be another source of procurement for contracting units. This contract also encompasses software, hardware, cloud technology and consulting services.

Francis thanked all of the presenters for their very informative presentations.

OLD BUSINESS- none

NEW BUSINESS: Denise Piskowski said that upon discussions with Jim, they were thinking to possibly buy some pins (around 150 or so) with the Chapter's logo. A motion was made, seconded and approved for this purchase.

Francis advised everyone that the meeting schedule for the two remaining meetings for 2022 are scheduled for September 29 and December 15 at a location to be yet determined.

The meeting was adjourned at or about 12:05 PM.

Respectfully Submitted,

Simona Casian-Sirbu

Secretary