

18A:64-56 Exceptions to Public Advertised Bids

To be used for purchases up to the current bid threshold unless accompanied by a BOT waiver approval

Any purchase, contract or agreement of the character described in section 4 of P.L.1986, c.43 (C.[18A:64-55](#)) may be made, negotiated or awarded by the State college by resolution at a public meeting of its board of trustees without public advertising for bids or bidding therefor if:

a. The subject matter thereof consists of:

1. Professional services; or
2. Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject, however, to procedures consistent with open public bidding whenever possible; or
3. Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted; or
4. The doing of any work by employees of the State college; or
5. The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the State college may be a party and the use of electronic data or media services, including the internet, for the printing of these legal notices and legal briefs, records and appendices; or
6. Textbooks, copyrighted materials, student-produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services, including electronic databases and digital formats; or
7. Food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias; or
8. The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with that board; or
9. Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with the services; or
10. Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or
11. Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or
12. Publishing of legal notices in newspapers as required by law and the use of electronic data or media services, including the internet, for the publication of the legal notices; or
13. The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or
14. The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America, and amounts due on other financial obligations to the State college, including but not limited to, the amounts due on tuition and fees and room and board; or
15. Professional consulting services; or
16. Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or

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17. Contracts employing funds created by student activities fees charged to students or otherwise raised by students and expended by student organizations; or
18. Printing, including without limitation catalogs, yearbooks and course announcements and the production and reproduction of such material in electronic and digital formats, including compact discs; or
19. Information technology; or
20. Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or
21. Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a State college for resale to college students and employees; or
22. Purchase or rental of graduation caps and gowns, and award certificates or plaques, or the rental of space and equipment used for graduation and other events and ceremonies; or
23. Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions; or
24. Management contracts for bookstores, performing arts centers, residence halls, parking facilities and building operations; or
25. Consulting services involving information technology, curricular or programmatic review, fund raising, transportation, safety or security; or
26. Construction management services for construction, alteration or repair of any building or improvement; or
27. Purchase or rental of equipment of a technical nature when the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or
28. Banking and investment services; or
29. Energy supply, such as electric and gas, from a third-party supplier; or
30. Hazardous waste collection and disposal services; or
31. Supplies and services for the administration of study abroad or remote programs; or
32. Transportation services; or
33. Vehicle maintenance; or
34. Vending services; or
35. Medical testing.

b. It is to be made or entered into with the United States of America, the State of New Jersey, a county or municipality or any board, body, or officer, agency or authority or any other state or subdivision thereof.

c. The State college has advertised for bids pursuant to section 4 of P.L.1986, c.43 (C.[18A:64-55](#)) on two occasions and (i) has received no bids on both occasions in response to its advertisement, or (ii) has rejected the bids on two occasions because the State college has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the State college prior to the advertising therefor, or have not been independently arrived at in open competition, or (iii) on one occasion no bids were received pursuant to (i) and on one occasion all bids were rejected pursuant to (ii), in whatever sequence; any contract or agreement may then be negotiated by a two-thirds affirmative vote of the authorized membership of the board of trustees authorizing the contract or agreement; provided that:

1. A reasonable effort is just made by the contracting agent to determine that the same or equivalent materials or supplies at a cost which is lower than the negotiated price are not available from any agency or authority of the United States, the State of New Jersey or of the county in which the State college is located, or any municipality in close proximity to the State college;

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2. The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 [[18A:64-55](#)] of this article; and
 3. Any minor amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of P.L.1986, c.43 (C.[18A:64-55](#)), shall be stated in the resolution awarding the contract or agreement; except that if on the second occasion the bids received are rejected as unreasonable as to price, the State college shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate and afford each bidder a reasonable opportunity to negotiate, but the State college shall not award the contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any reasonable vendor, and is a reasonable price for the work, materials, supplies or services. Whenever a State college shall determine that a bid was not arrived at independently in open competition pursuant to subsection c. (ii) of this section, it shall thereupon notify the Attorney General of the facts upon which its determination is based and, when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.
- d. It is to be awarded through a reverse auction for the purchase of utilities and other commodities.