

SUBCHAPTER 51. STANDARDS FOR TYPE S SCHOOL VEHICLES

13:20-51.16 School bus sensor system

(a) Pursuant to N.J.A.C. 6A:27-7.13, each school bus shall be equipped with a properly designed and installed sensor to determine the presence of person(s) or object(s) located in, but not limited to, the front and back of the school bus.

(b) All equipment subject to inspection shall meet the standards for the applicable date of manufacture now or hereafter prescribed by Federal law or regulation at 49 CFR Part 571, New Jersey statute, or Motor Vehicle Commission or State Board of Education rule, including the school bus sensor system to detect the presence of person(s) or object(s) located in, but not limited to, the front and rear of the school bus, which sensor shall conform to the guidelines and specifications under N.J.A.C. 6A:27-7.13.

TREASURY—GENERAL

(a)

DIVISION OF PURCHASE AND PROPERTY

Division of Purchase and Property: Purchase Bureau and Contract Compliance and Administration Unit; Surplus Property Unit, Computer Distribution Program

Readoption with Amendments: N.J.A.C. 17:12

Adopted New Rules: N.J.A.C. 17:12-1A.4, 1B, and 2.9

Proposed: October 1, 2018, at 50 N.J.R. 2056(a).

Adopted: December 26, 2018, by Elizabeth Maher Muoio, State Treasurer.

Filed: December 26, 2018, as R.2019 d.012, **without change**.

Authority: N.J.S.A. 10:5-36(k) and (o); 52:18A-30(d); 52:25-1 et seq., 52:25-16.1, 52:32-17 et seq., 52:34-6 et seq., 52:34-6.2(d), 52:34-10.4, 52:34-10.10, 52:34-12(a), and 52:34-13; and Executive Orders No. 34 (1976) and No. 189 (1988).

Effective Dates: December 26, 2018, Readoption; January 22, 2019, Amendments and New Rules.

Expiration Date: December 26, 2025.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments and new rules are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 17:12.

Full text of the adopted amendments and new rules follows:

SUBCHAPTER 1. DESCRIPTION OF ORGANIZATION; MEANS OF PROCUREMENT

17:12-1.1 General course and method of operation

(a) The Division of Purchase and Property (Division), in and of the New Jersey Department of the Treasury, provides centralized procurement and related services to agencies of the Executive Branch of State government. Within its statutory framework, the primary mission of the Division is to procure, in a timely and effective manner, contracts for the goods and services necessary for the daily operation of State government. The Division includes the Procurement Bureau, the Contract Compliance and Audit Unit, and the Distribution and Support Services Unit. This chapter sets forth the rules that apply to the Division, State agencies and other public entities, and vendors participating in the State's procurement and contracting processes.

(b) The Director of the Division of Purchase and Property (Director) is charged with the responsibility for establishing contracts and issuing purchase orders, the cost of which is to be paid with State funds or funds in the State's custody and control, and occasionally those contracts involving no cost to the State or those generating revenue for the State. If the aggregate amount involved does not exceed the threshold established pursuant to N.J.S.A. 52:34-7, any procurement or contract may be made, negotiated, or awarded by the Director without advertising, in any manner the Director may deem effective and practicable to permit full and free competition.

(c) When the aggregate amount exceeds the threshold established pursuant to N.J.S.A. 52:34-7, the Division shall, as prescribed and/or practicable, use one of the following methods to procure the needed goods and/or services:

1. (No change.)

2. A non-advertised procurement process in accordance with applicable statutes and with the requirements and restrictions expressly set forth in this chapter, specifically pertaining to contracting pursuant to:

i. (No change.)

ii. N.J.S.A. 52:34-6.2, by participating in cooperative agreements formed with or by another state or states, or a political subdivision thereof or a political subdivision of New Jersey, or with or by a nationally recognized and accepted cooperative purchasing participant with which other states participate, as described at N.J.A.C. 17:12-1A.3 and 1A.4;

iii.-v. (No change.)

(d)-(e) (No change.)

17:12-1.2 Public information

(a) The public is encouraged to obtain information concerning the State procurement program and request for proposals (RFPs) by accessing the Division's Internet site at www.nj.gov/treasury/purchase. If the information being sought is not available on the Division's website, the public can request information by posing questions via the Division's website, by writing to the Director of the Division of Purchase and Property, PO Box 039, Trenton, New Jersey 08625-0039, or by visiting the Division's reception area at 33 West State Street, 9th Floor.

(b)-(c) (No change.)

17:12-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...
"Contract" means a mutually binding legal relationship obligating the contractor to furnish goods and/or services and the purchaser to pay for them, subject to appropriation where the using agency derives its annual budget by means of appropriation from the State Legislature. For publicly advertised contracts, the contract typically consists of the Division's standard terms and conditions, the RFP, the responsive proposal, the notice of intent to award, any subsequent written document memorializing the agreement, any amendments or modifications to any of these documents and any attachments, addenda or other supporting documents, or other writings agreed to by the State and the contractor describing the work to be performed.

...
"Cooperative agreement" refers to a contractual relationship in which the Division, pursuant to the provisions of N.J.S.A. 52:34-6.2, joins with, or is joined by, another state or states or political divisions thereof or political subdivisions of New Jersey, or with a nationally recognized and accepted cooperative procurement entity in which other states participate, for the acquisition of goods and/or services that have been, or are to be, procured through competitive bidding.

"Cooperative purchasing participants" refers, collectively, to interstate cooperative purchasing participants and intrastate cooperative purchasing participants.

...
"Interstate cooperative purchasing participants" refers to another state or states, or political divisions thereof, that pursuant to its own laws and regulations are permitted to utilize contracts awarded by the Director.

"Intrastate cooperative purchasing participants" refers to political subdivisions, volunteer fire departments and first aid squads, and independent institutions of higher education and school districts pursuant

to N.J.S.A. 52:25-16.1 et seq., State and county colleges pursuant to N.J.S.A. 18A:64-60 and 18A:64A-25.9, quasi-State agencies and independent authorities pursuant to N.J.S.A. 52:27B-56.1, and other New Jersey public entities having statutory authority to utilize select State contracts issued by the Division.

“Intrastate cooperative purchasing program” refers to the Division’s program that provides procurement-related assistance to intrastate cooperative purchasing participants.

“Notice of intent to award” refers to the Director’s notification to all bidders identifying the intended contract awardee(s) following an advertised procurement.

“Protest” means a timely filed written challenge to a specification in an advertised RFP, to a rejection of a proposal declared non-responsive, to a notice of intent to award issued by the Director, or to the cancellation of an RFP after the opening of proposals.

“Using agency” refers to a State department or agency, a quasi-State governmental entity, or an intrastate cooperative purchasing participant authorized to purchase products and/or services under a specific contract procured by the Division.

17:12-1.4 Application of rules

Except as otherwise provided in this chapter, these rules shall apply to all advertised and non-advertised contracts awarded by the Division or under the authority of the Division, including all Delegated Purchasing Authority contracts as set forth in Department of the Treasury Circular, Delegated Purchasing Authority (DPA), as amended or re-designated, and accessible at the Department of the Treasury’s website.

SUBCHAPTER 1A. PROCUREMENT METHODOLOGY

17:12-1A.1 Advertised procurements

(a) Except as provided in this subchapter, all procurements shall be effected through advertised procurement procedures.

(b) The Director shall structure RFPs to provide for a single contract award to a single bidder, unless contract awards to multiple bidders are permitted as hereinafter provided in this subchapter.

(c) The Director may structure an RFP to include multiple lines encompassing more than one commodity, group of commodities, service or group of services, with separate contract awards for each price line or grouping of price lines.

(d) Pursuant to the provisions of N.J.S.A. 52:34-12.1, the Director may structure an RFP to provide for awards to multiple bidders to meet the anticipated needs of State agencies and, if the State contracts are to be extended to cooperative purchasing participants pursuant to N.J.A.C. 17:12-2.3, the anticipated needs of cooperative purchasing participants, based upon one or more of the following criteria:

- 1.-7. (No change.)
- (e)-(f) (No change.)

17:12-1A.2 Exceptions to advertised procurement procedures

(a) All contracts issued by the Division shall be effected through advertised procurement procedures, except for the following types of contracts:

- 1.-3. (No change.)
- 4. Cooperative agreements with one or more other states, or political subdivisions thereof or of New Jersey, or with a nationally recognized and accepted cooperative procurement entity in which other states participate, pursuant to the provisions of N.J.A.C. 17:12-1A.3; or
- 5. (No change.)

(b) Delegated Purchasing Authority purchases. State using agencies may make purchases pursuant to their assigned Delegated Purchasing Authority under the conditions set forth in (b)1 through 6 below, with provision for exception as set forth in (b)7 below. Records of all Delegated Purchasing Authority purchases shall be maintained by State agencies pursuant to each agency’s record retention schedule.

- 1.-2. (No change.)

3. The purchase is one that cannot be made through a State contract, the State Distribution and Support Services Unit, the Department of Corrections’ Bureau of State Use Industries/DEPTCOR, or the Central Non-profit Agency (CNA).

4. (No change.)

5. The purchase is compliant with the Delegated Purchasing Authority procedures set forth in the Department of the Treasury Circular, Delegated Purchasing Authority (DPA), as amended or re-designated, and accessible at the Department of the Treasury’s website.

6.-7. (No change.)

(c) Waiver of Advertising procurements. In accordance with the provisions of N.J.S.A. 52:34-8, contracting for goods and/or services in excess of the competitive bidding threshold established at N.J.S.A. 52:34-7, or the adjusted amount established under the provisions of N.J.S.A. 52:34-7.1, without public advertising, requires prior approval by the State Treasurer or the Treasurer’s designee. Awards of waiver of advertising contracts shall be made in accordance with the procedures set forth in the Department of the Treasury Circular, Requests for Waivers of Advertising, as amended or re-designated, and may occur when the following conditions have been met:

- 1.-3. (No change.)

17:12-1A.3 Joining cooperative agreements

(a)-(b) (No change.)

(c) Prior to entering into any cooperative agreement, the Director shall:

- 1.-2. (No change.)
- 3. Require the contractor or scheduled contract awardee to execute an addendum containing the State contracting terms and conditions and any other terms making the cooperative agreement more favorable to the State, as determined by the Director.

17:12-1A.4 Leading a cooperative agreement

(a) The Director may lead, sponsor, conduct, solicit, award, and administer cooperative agreements.

(b) Cooperative agreements shall be procured through advertised procurement procedures.

(c) The procurement documents shall set forth the combined requirements of the cooperative purchasing participants and specify that each jurisdiction participating in a contract is solely responsible for the payment of the purchase price and cost of purchases made by it under the terms of any resultant contract.

(d) Where the Director procures contracts on behalf of a nationally recognized and accepted cooperative procurement entity, the Director may utilize a master agreement/participating addendum structure, whereby the Director awards the contractor(s) or scheduled contract awardee(s) a master agreement and all participating entities join via execution of a participating addendum.

17:12-1A.5 Use of Federal supply schedule contracts

(a)-(b) (No change.)

(c) A using agency intending to purchase a good and/or service from a vendor based upon that vendor’s Federal supply schedule contract shall comply with all provisions and procedures detailed in the Department of the Treasury Circular, Purchases from Federal Supply Schedules or Schedules of Other Federal Procurement Programs, as amended or re-designated, that sets forth essential procedural and documentary requirements.

(d) A vendor offering a good and/or service to State agencies referencing a Federal supply schedule contract must meet the specific eligibility criteria and procedural provisions set forth and standardized in the Department of the Treasury Circular, Purchases from Federal Supply Schedules or Schedules of Other Federal Procurement Programs, as amended or re-designated, which is a condition to be communicated to the vendor by the using agency contemplating such purchase activity. The circular is accessible at the Department of the Treasury’s website.

SUBCHAPTER 1B. TERMS AND CONDITIONS

17:12-1B.1 Terms and conditions; generally

(a) Pursuant to N.J.S.A. 52:34-13, the Division has developed standard terms and conditions for incorporation into contracts, available on the Division’s website.

(b) The standard terms and conditions in (a) above may be updated from time-to-time and made available on the Division's website.

(c) Where not contrary to applicable law, the Director or his or her designee, at his or her discretion, may:

1. Include revised term(s) in an RFP that supersedes some or all of the standard terms and conditions; or

2. Otherwise approve a change to one or more of the standard terms and conditions.

17:12-1B.2 Terms and conditions; prohibited terms

(a) The Director shall not approve or agree to enter into any contract that requires the State to indemnify or hold harmless a contractor, or other person or business entity, except as otherwise authorized by law.

(b) Where a prohibited indemnification or hold harmless provision is included in a contract, it shall be void from the outset; except that the contract containing that term or condition shall otherwise be enforceable as if it did not contain such term or condition.

(c) The prohibition in (a) above shall apply to all persons negotiating a contract on behalf of the Director and all contracts issued under the authority of the Director.

SUBCHAPTER 2. ADVERTISED PROCUREMENT PROCEDURES

17:12-2.1 Advertising

(a)-(c) (No change.)

(d) As a service to vendors interested in competing for State contracts to be awarded by the Division and to any other parties seeking information about bidding opportunities available via the Division's competitive contract procurement program, the Division provides an on-line self-registration service on its website. Vendors and other interested parties can register to receive direct e-mail notices pertaining to the Division's procurements for goods or services based upon specific commodity classes or codes. As this is a self-registration process, it does not create an entitlement for any party to receive notice of any particular solicitation of proposals, and the Division and the State shall not be liable for any losses, claims, or damages of any kind if a vendor or other party, for any reason, is not registered or does not receive an e-mail notice. It is the responsibility at all times for registrants to exercise due diligence in reviewing the notices on the Division's website to assure their awareness of State bidding opportunities announced by the Division.

17:12-2.3 Extension of contracts for cooperative purchasing participant use

(a) The Director may, through provision in an RFP, extend a State contract for use by cooperative purchasing participants.

(b) If after award of a contract, either the Director or the contractor seeks to extend a contract for use by the cooperative purchasing participants, the Director and contractor may agree to such arrangement, provided the contractor agrees in writing to extend the contract to all cooperative purchasing participants on the same terms and conditions as set forth in the underlying State contract.

(c) In the event a contract permits extension for use by the cooperative purchasing participants, such use shall be limited to the goods and services that are the subject of the contract and shall be subject to the terms and conditions of the contract, as appropriate.

17:12-2.6 Receipt and public availability of proposals

(a)-(d) (No change.)

(e) For RFPs having a negotiation component, only the names and addresses of the bidders will be publicly announced at the proposal opening.

(f) After the notice of intent to award has been issued, files relating to the procurement and, if applicable, documentation relating to any negotiations, shall not be considered public documents according to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and will only be made available to the non-winning bidders and to any taxpayer considering filing a protest of the notice of intent to award upon request. All files relating to the procurement made available pursuant to this subsection shall be redacted pursuant to applicable law.

(g) After award of contract(s), all files relating to the procurement shall be considered public documents under OPRA and shall be redacted

pursuant to OPRA and applicable law. The following provisions shall apply for all procurements:

1.-3. (No change.)

17:12-2.7 Evaluation of proposals for advertised procurements

(a) Except as otherwise provided in N.J.A.C. 17:12-2.9, proposals shall be evaluated in either of two ways, with a recommendation for proposed award(s) made to the Director upon conclusion of the evaluation. All recommendations, whether prepared by an evaluation committee or by a Division staff member assigned to conduct the procurement, are advisory in nature and not binding upon the Director. The evaluation methods are:

1.-2. (No change.)

(b)-(d) (No change.)

(e) The evaluation committee or the assigned Division staff member may, by written request, ask a bidder to clarify, in writing, its proposal in order to determine whether a proposal should be further considered for award. The process of clarification is not an opportunity for a bidder to supplement, change, or correct its proposal. Any response or portion of a response by a bidder to the Division's written request for clarification that attempts to supplement, change, or correct its proposal shall be given no effect.

(f)-(j) (No change.)

17:12-2.8 Poor performance as a basis for bypass of low bidder

(a) A record of poor performance on prior and/or current State contracts by a bidder submitting a lower priced proposal is sufficient basis for bypassing its proposal. In determining whether a bidder's poor performance warrants the bypass of its proposal, the Director shall take into consideration the frequency and seriousness of the bidder's poor performance as a contractor. Poor contract performance is evidenced by:

1. (No change.)

2. Other information contained in the Division's vendor performance records, contained in a using agency's records, or obtained from audits or investigations of the bidder's prior work experience completed by the Division, a using agency, another state or Federal jurisdiction, a cooperative purchasing participant, or, its current licensure, registration, or certification status and relevant prior licensure, registration, or certification history, or its status or rating with established business/financial reporting services, as applicable.

(b) The Director may, in those instances where there is evidence of a record of poor performance by a bidder with customers or jurisdictions other than the State, request additional information beyond that in the bidder's proposal from the bidder in question regarding the bidder's present capability to perform adequately under the terms of the contract in question. If the bidder's response to the Division's request, in the Director's discretion, fails to demonstrate its current ability to perform adequately, the Director may bypass that bidder's proposal.

(c)-(e) (No change.)

17:12-2.9 Lowest price, responsive procurements

(a) The Director may structure a procurement to award contract(s) to the bidder(s) submitting the lowest price proposal when it is determined that the best value is expected to result therefrom.

(b) When using the lowest price process, the following apply:

1. The factors and significant subfactors that establish the requirements of responsiveness shall be set forth in the RFP. The RFP shall specify that award will be made on the basis of the lowest calculated price of proposals meeting the factors and significant subfactors in the RFP.

2. Proposals are evaluated for responsiveness and ranked using only cost/price factors. Where pricing is calculated or ranked using formulas, utility models, or market baskets, the assigned Division staff member shall, prior to the opening of proposals, determine, document, and date-stamp such formulas, utility models, or market basket methodologies.

3. Bypass is not permitted, except on the basis of poor performance pursuant to N.J.A.C. 17:12-2.8.

4. Clarifications may occur pursuant to N.J.A.C. 17:12-2.7(e).

5. Negotiation is permitted pursuant to N.J.A.C. 17:12-2.7(j). For RFPs not having a negotiation component, pre-set formulas, utility models, or market basket methodologies, if applicable, shall be available to the public at the proposal opening event.

(c) The Division shall, upon conclusion of the evaluation of the proposals, prepare a written report with a recommendation for award for the Director's consideration.

(d) The Director shall review the award recommendation and documentation presented and may accept it, modify it, reject it, or refer the modified award recommendation and documentation back to the Division for additional consideration.

(e) The Director shall issue the notice of intent to award to all participating bidders. The notice of intent to award document sent to the scheduled contract awardee(s) shall include the identification of certification(s) and/or other essential documents that were not required to be included with the proposal but are required for contract award and a designated date when the required certifications and/or documents are due. A scheduled awardee's failure to comply within the time afforded shall constitute grounds for the Director's rescission of the notice of intent to award to the non-responding scheduled awardee. If the requested materials are not timely submitted, the Director may refer the matter back to the Division for consideration as to whether the scheduled award should proceed, with reconsideration of all pertinent factors, including the issue of assessment of costs incurred by the State as a result of the scheduled awardee's delay by, or the non-award of the contract to, the named awardee.

(f) In the event that the Director determines it is in the public interest or the State's interest to reject all proposals, the Director shall so notify all bidders.

17:12-2.11 Proposal errors

(a) Prior to the opening of proposals:

1. Proposals submitted electronically may be withdrawn at any time. The bidder may submit another proposal, as long as the replacement proposal is received prior to the announced date and time for proposal opening and at the place specified.

2. Proposals submitted in hard copy may be withdrawn upon written request to the Director. The bidder may submit another proposal, as long as the replacement proposal is received prior to the announced date and time for proposal opening and at the place specified.

(b) (No change.)

(c) If, during a proposal evaluation process, an obvious pricing error made by a bidder deemed to be a potential contract awardee is found, the Director shall issue written notice to that bidder. If the bidder fails to respond, its proposal shall be considered withdrawn, and no further consideration shall be given to it.

(d)-(e) (No change.)

17:12-2.12 Registration of corporations and other business entities

(a) In accordance with the provisions of N.J.S.A. 52:32-44.b, business organizations seeking to do business with the State of New Jersey must be business-registered with the New Jersey Department of the Treasury's Division of Revenue prior to the time a contract or purchase order is awarded or authorized. Proof of such registration must be provided by an intended contract or purchase order awardee upon request by the Division or using agency.

(b) In accordance with N.J.S.A. 52:32-44.c, subcontractors that are business organizations must be registered with the New Jersey Department of the Treasury's Division of Revenue and provide evidence thereof to the prime contractor before being permitted by the prime contractor to sign a subcontract under a State contract.

(c) (No change.)

17:12-2.13 Preference laws; out-of-State vendors

(a)-(d) (No change.)

(e) The Director shall also apply in-State preference in the evaluation of proposals whenever a proposal is received from an out-of-State bidder where residential preference statutes, rules, regulations, or practices exist in political sub-divisions of a state. It shall be the responsibility of the bidder or bidders for a specific procurement to provide written evidence to the Director of the existence of such local government preference rules, regulations, ordinances, charters, or practices either with the bidder's proposal or within five business days after the deadline for proposal submission. Written evidence that is not provided to the Director within five business days of the public proposal opening may not be considered

in the evaluation of that procurement, but may be retained and considered in the evaluation of subsequent procurements.

(f)-(l) (No change.)

SUBCHAPTER 3. PROTEST PROCEDURES

17:12-3.1 Protests

(a) The purpose of this subchapter is to provide the procedures that govern written challenges to an action of the Director related to advertised procurements. A protest is defined as follows:

1. A timely filed written challenge to a term, condition, or requirement of a specification contained within an advertised RFP;

2. A timely filed written challenge related to the rejection of a proposal for failure to comply with any of the prerequisites set forth in N.J.A.C. 17:12-2.2;

3. A timely filed written challenge to a notice of intent to award issued by the Director; or

4. A timely filed written challenge to the Director's cancellation of an RFP after the opening of proposals.

(b) (No change.)

17:12-3.2 Protest procedures; challenges to a specification

(a)-(c) (No change.)

(d) The Director may resolve a protest of a specification by amending the RFP and extending the deadline for proposal submission, by canceling the procurement, or by any other appropriate means.

Recodify existing 1.-2. as (e)-(f) (No change in text.)

17:12-3.3 Protest procedures; challenge to proposal rejection, notice of intent to award, or RFP cancellation

(a) A bidder, having submitted a proposal in response to an advertised RFP administered pursuant to N.J.S.A. 52:34-6 et seq., may submit a written protest to the Director concerning the:

1. Rejection of its proposal, or a portion thereof, when such rejection arises as a consequence of failure to comply with any of the prerequisites set forth in N.J.A.C. 17:12-2.2, Requirements for bidding and contract award. Such a protest may not challenge the existence of the prerequisite(s) cited as cause for the rejection but may assert that the facts of a particular case are sufficient to satisfy or conform to the cited prerequisite(s);

2. Notice of intent to award contract(s) pertaining to the subject procurement; and/or

3. Cancellation of an RFP after the opening of proposals.

(b) A bidder, having submitted a proposal in response to an advertised RFP and finding cause to protest pursuant to (a) above, shall make a written request to the Director, setting forth, in detail, the specific grounds for challenging the rejection of its proposal or for challenging the scheduled contract award, as applicable. The protest shall be filed within 10 business days following the bidder's receipt of written notification that its proposal is non-responsive or of notice of the intent to award, as applicable, or, pursuant to (e) below, prior to the deadline specified in the Division's notice of intent to award communication to the bidder, whichever date is earlier.

1. A protest shall contain the following items:

i. (No change.)

ii. The specific grounds for challenging the proposal rejection, the notice of intent to award, or the cancellation, including all arguments, materials, and/or other documentation that may support the protester's position; and

iii. (No change.)

2. (No change.)

3. The Director may disregard any protest filed after the 10-day-protest period and proceed with the award of contract(s).

4. The Director may request that a bidder file a response to a protest. Responses and replies are at the Director's discretion; the Director may disregard any unsolicited response or reply.

(c) (No change.)

(d) The protest accepted by the Director shall be resolved by written decision on the basis of the Director's review of the written record including, but not limited to, the written protest, the terms, conditions and requirements of the RFP, the proposals submitted in response to the RFP,

the evaluation committee report and/or the award recommendation document, pertinent administrative rules, statutes, and case law, and any associated documentation the Director deems appropriate. In cases where no in-person presentation is held, such review of the written record shall, in and of itself, constitute an informal hearing.

- Recodify existing 1.-2. as (e)-(f) (No change in text.)
- (g) (No change in text.)

conditions of a State contract. The complaint shall be in writing and on Form CC-36 or the equivalent and be submitted to the CCAU. Complaints are not required where a contract contains specific performance standards including, but not limited to, liquidated damages. In such cases, the using agency may consult with CCAU prior to imposing the contract standards.

- (b) (No change.)

SUBCHAPTER 4. COMPLAINT AND AUDIT PROCEDURES

17:12-4.3 Filing of complaints; subject matter

(a) Using agencies shall promptly initiate and file a formal complaint of any failure by a contractor to comply with the provisions, terms, and