

New Jersey Administrative Code
Title 19. Other Agencies
Subtitle I. New Jersey Economic Development Authority
Chapter 31C. Fort Monmouth Economic Revitalization Authority
Subchapter 1. Real and Personal Property Leasing

N.J.A.C. T. 19, Subt. I, Ch. 31C, Subch. 1, Refs & Annos
Currentness

Current through amendments included in the New Jersey Register, Volume 54, Issue 19, dated October 3, 2022. Some sections may be more current, see credits for details.

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N.J.A.C. 19:31C–1.1

19:31C–1.1 Applicability and scope

Currentness

The Fort Monmouth Economic Revitalization Authority is promulgating this subchapter to govern the lease of real property and accompanying personal property as part of its mission in planning and implementing the redevelopment and reuse of Fort Monmouth and pursuant to authorization under [P.L. 2010, c. 51 \(N.J.S.A. 52:27I–18 et seq.\)](#).

Credits

Adopted by R.2012 d.078, effective April 16, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

CHAPTER EXPIRATION DATE

<Chapter 31C, Fort Monmouth Economic Revitalization Authority, expires June 15, 2027.>

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N.J.A.C. 19:31C–1.1, NJ ADC 19:31C–1.1

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N.J.A.C. 19:31C–1.2

19:31C–1.2 Definitions

Currentness

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

“Authority” means the Fort Monmouth Economic Revitalization Authority.

“Board” means the Board of the Fort Monmouth Economic Revitalization Authority.

“Director” means the Director of the Fort Monmouth Economic Revitalization Authority.

“FMERA” means the staff responsible for carrying out the policies, mission, and purpose of the Fort Monmouth Economic Revitalization Authority.

“Market rent” means the rental rate, commonly expressed as a rate per square foot, as determined by a professional licensed appraiser or a valuation consultant retained by the Authority.

“Plan” means the Fort Monmouth Reuse and Redevelopment Plan prepared and adopted by the Authority's predecessor authority, the Fort Monmouth Economic Revitalization Planning Authority.

“Public agency” means a branch or office of the Federal government, State departments, agencies or authorities, public institutions of higher education, the county, and the host municipalities.

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N.J.A.C. 19:31C–1.2, NJ ADC 19:31C–1.2

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N.J.A.C. 19:31C-1.3

19:31C-1.3 Advertising process

Currentness

(a) FMERA shall publicly advertise a notice of each opportunity for the lease of real and accompanying personal property on the Authority's website, on the New Jersey State business portal and place an advertisement for same in the "Public/Legal Notice" section of the Star Ledger, the Asbury Park Press and, if FMERA deems it appropriate, in other regional newspaper(s) or publications.

(b) In addition to (a) above, FMERA may contact potential lessees directly to seek to increase the number of proposals received in response to an advertised opportunity to lease.

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N.J.A.C. 19:31C-1.4

19:31C-1.4 Proposal request

Currentness

(a) The public notice of opportunity to lease shall request proposals for a lease of a particular parcel or building, which shall include the time, date, and format in which the proposal is to be submitted. The notice shall also include a name and phone number or other contact information potential lessees can use to obtain additional information about the leasing opportunity.

(b) Each public notice of opportunity to lease shall specify material terms of the lessor-lessee relationship that are to be proposed by potential lessees and material terms that are required for the particular lease and not subject to bidding shall be specified either through the advertisement for notice of opportunity to lease, a specimen form of lease agreement, or on the Authority's website.

(c) Proposals will be opened on the date specified in the public notice. After proposals have been publicly opened, FMERA may seek best and final proposals from one or more potential lessees that timely submitted a responsive proposal for the particular real property and accompanying personal property.

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N.J.A.C. 19:31C–1.5

19:31C–1.5 Proposal submission

Currentness

(a) All proposals shall be submitted on or before the specified time and date required by the public notice and contain all information requested by FMERA. Unless otherwise specified in the notice, a proposal shall not be submitted by telephone, facsimile, or other electronic means.

(b) All proposals shall include a certified, cashier's, or bank check made payable to the Authority in the amount of 10 percent of the first year's rent, which shall be held by the Authority as a deposit and applied to the rental payments for the accepted proposal, and returned to all others.

(c) Deposit checks shall be deposited by FMERA into an FDIC-insured interest bearing account with interest accruing to the benefit of the potential lessee. Deposits paid by unsuccessful potential lessees, with accrued interest, shall be returned when FMERA issues its notice of intent to award a lease in accordance with [N.J.A.C. 19:31C–1.14\(c\)](#).

(d) Proposals received by FMERA shall be held unopened until the close of the proposal submission period, at which time all proposals received shall be publicly opened and the identities of the potential lessees, but not the substance of the proposals, will be read.

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N.J.A.C. 19:31C-1.6

19:31C-1.6 Extension of time to submit proposal

Currentness

The Director may extend the time for opening proposals at the request of a potential lessee who notifies FMERA that he or she intends to submit a proposal and gives valid reasons why he or she will not meet the proposal opening date. The potential lessee making this request shall do so in writing and specify the length of additional time requested. The written request must be received by FMERA no later than one week prior to the proposal submission deadline. If granted, extensions of time for opening of proposals shall be applicable to all potential lessees and shall be posted on the Authority's website. All proposals shall be held and remain sealed until the expiration of the time extension granted by the Director.

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N.J.A.C. 19:31C-1.7

19:31C-1.7 Prices

Currentness

(a) A proposal shall include all material price information required by the public notice. Prices shall be typewritten, photocopied, or written in ink or some other indelible substance.

(b) Unless the public notice states otherwise, the prices submitted shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with [N.J.A.C. 19:31C-1.13](#).

Credits

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N.J.A.C. 19:31C–1.8

19:31C–1.8 Withdrawal of proposal

Currentness

(a) Prior to the time for opening proposals, a potential lessee may, for any reason, request the withdrawal of his or her proposal. The request shall be made in writing to FMERA and shall be signed by a person authorized to submit the proposal (such as the owner or owner's designated representative, or an attorney or real estate broker with written permission to negotiate and act as attorney-in-fact for owner). Proof of authorization shall accompany the request.

(b) After the opening of the proposals, if either the potential lessee or FMERA discover a material error in a proposal, the potential lessee may request the withdrawal of the proposal. If the error is discovered by FMERA, the potential lessee will be notified in writing, and the potential lessee will have five business days from receipt of the notice to request withdrawal of the proposal. Any request to withdraw from the potential lessee shall be addressed to FMERA, which will return the proposal if the potential lessee can demonstrate that he or she exercised reasonable care in preparing and submitting the proposal, and that it would be unconscionable for FMERA to enforce the proposed lease agreement. The decision to grant or deny any such request shall be at the sole discretion of the Director.

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N.J.A.C. 19:31C–1.9

19:31C–1.9 Correction of pricing error

Currentness

(a) FMERA shall correct a pricing error in a leased space proposal under the following circumstances:

1. Unless the public notice states otherwise, or the result would be unconscionable, where a leased space proposal contains a discrepancy between a unit price and a total price based on those units, the unit price shall govern. Where the proposal contains any other price discrepancy, FMERA shall determine the price if the leased space proposal contains clear evidence of the intended price.

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N.J.A.C. 19:31C–1.10

19:31C–1.10 Verification of proposal

Currentness

FMERA may seek information outside of the proposal to verify the accuracy and responsiveness of the proposal, and whether the potential lessee is responsible. FMERA may request such information from the potential lessee, from public records, or from others familiar with the potential lessee or the space. Such information may clarify, but not modify, a lease proposal. Such investigation may include, but shall not be limited to, contacting the potential lessee's surety companies, financial institutions, and prior lessees, or visiting the potential lessee's place of business and property sites.

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N.J.A.C. 19:31C-1.11

19:31C-1.11 Rejection of all proposals, re-advertisement and termination

Currentness

FMERA reserves the right to reject all lease proposals and to either re-advertise or terminate an advertised opportunity to lease if FMERA determines that insufficient competition results from the initial advertisement, the price is unfavorable in the current market, or for any other reason in the best interests of the Authority or the redevelopment plans for Fort Monmouth.

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N.J.A.C. 19:31C–1.12

19:31C–1.12 Evaluation

Currentness

(a) FMERA shall evaluate each lease proposal received in accordance with this subchapter and shall identify the proposal(s) determined to be responsive to all material elements set forth in the notice, including, but not limited to:

1. The rent rate per square foot;
2. The lease term;
3. The total tenant investment during lease term;
4. The estimate of jobs to be created or relocated to the parcel;
5. The potential lessee's financial capacity to meet the proposed terms of the lease;
6. The use of leased space;
7. The impact to the host municipality; and
8. Confirmation that the potential lessee's proposed use is consistent with the Plan.

(b) Evaluation of proposals will be made based on the best interests of the Authority and the redevelopment plans for Fort Monmouth, price, and other factors.

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N.J.A.C. 19:31C–1.13

19:31C–1.13 Negotiations

Currentness

FMERA may seek to obtain business terms that better suit the interests of the Authority and the redevelopment plans for Fort Monmouth by negotiating with the one or more potential lessee(s) that submit the best lease proposal(s) in accordance with the above noted evaluation criteria. FMERA reserves the right to negotiate with some, but not all, potential lessees who submitted a proposal based on the initial submissions.

Credits

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N.J.A.C. 19:31C–1.14

19:31C–1.14 Recommendation, review, and award

Currentness

(a) The Director and FMERA shall recommend to the Board the one potential lessee who will provide the lease agreement which is in the best interests of the Authority and the redevelopment plans for Fort Monmouth considering price and other factors. The Director and FMERA may decide not to recommend any lease proposals to the Board.

(b) The Board shall determine whether to issue a notice of intent to award a lease agreement and reject competing proposals or to take other appropriate action.

(c) Upon approval by the Board of an award of lease, FMERA shall issue a notice of intent to award a lease agreement and send it to all potential lessees that submitted a proposal. The notice of intent to award a lease agreement shall set forth all of the material terms of the lease agreement. FMERA shall finalize the lease agreement which shall be executed by the Director.

Credits

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N.J.A.C. 19:31C–1.15

19:31C–1.15 Challenges

Currentness

(a) After the date of the notice of intent to award a particular proposed lease agreement, potential lessees who submitted a proposal may review:

1. Proposals submitted by other potential lessees;
2. FMERA's comparative summary of proposals received; and
3. Records of the negotiations, if any.

(b) Challenges to the notice of intent to award a particular proposed lease agreement shall be submitted in writing to the Director within 10 business days from the date of the letter giving notice of intent to award issued in accordance with [N.J.A.C. 19:31C–1.14\(c\)](#) and shall state with specificity all arguments, materials, and/or other documents that may support the challenger's position that the proposed award should be overturned. The Director may extend the time for submitting a challenge on good grounds shown to the satisfaction of the Director in his or her sole discretion.

(c) If a challenge is timely received, the Director shall assign a hearing officer to review the challenge and make a final recommendation to the Board. The Director, in consultation with the hearing officer, has sole discretion to determine if an oral presentation by the challenger is necessary to reach an informed decision on the merits of the challenge. Challenges of the type described in this subchapter, for the purpose of this chapter, are not contested cases subject to the requirements of the Administrative Procedure Act, [N.J.S.A. 52:14B–1 et seq.](#), and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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N.J.A.C. 19:31C–1.16

19:31C–1.16 Documents considered public information

Currentness

After FMERA's issuance of notice to all potential lessees of intent to award the particular lease proposal approved by the Board, the documents submitted by potential lessees (excluding those items exempt from public access pursuant to [N.J.S.A. 47:1A–1 et seq.](#)) shall be considered public information, notwithstanding any disclaimers submitted by the potential lessees to the contrary.

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N.J.A.C. 19:31C–1.17

19:31C–1.17 Lease with public agency

Currentness

(a) Notwithstanding the advertising process set forth in [N.J.A.C. 19:31C–1.3](#), FMERA, in response to a solicitation for proposals by a public agency, may make a proposal to the public agency to lease a parcel of land or a building and accompanying personal property without publicly advertising the particular property as being available for lease when the Board determines that the proposed lease with the public agency is in the best interests of the Authority and the redevelopment plans for Fort Monmouth considering price and other factors or that the particular property offers a unique benefit to the public agency.

(b) The Director and FMERA may recommend to the Board the making of a lease proposal to a public agency if the proposal is in the best interests of the Authority and the redevelopment plans for Fort Monmouth considering price and other factors or the particular property offers a unique benefit to the public agency. The rental rate for a lease proposed to a public agency may be discounted below market rent based on an evaluation formula approved by the Board taking into consideration elements that may include, but not be limited to: job creation; economic or community benefit(s) that would not be realized from a lease to a private party; service provided to municipality or county; and improved community development or educational services to the region. Any recommendation to make a lease proposal to a public agency shall also identify any solicited or unsolicited lease or purchase proposal that the Authority may have received for the particular property.

(c) FMERA may respond to a request for a refined proposal or a counter-proposal from the public agency that received a proposal by negotiating minor changes to the Authority's proposal provided that changes to the Authority's proposal do not materially change the benefits of the lease to the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered, based upon the above noted evaluation criteria.

(d) Upon acceptance by a public agency of a lease proposal made by the Authority with no changes or only minor changes to the Authority's proposal or the approval by the Board of a refined proposal by FMERA or a counter-proposal from a public agency, FMERA may enter into a lease agreement for the particular property with the public agency to whom FMERA had made an offer.

(e) If, in the period of time between when the Board approves the making of a proposal to a public agency pursuant to (a) above and FMERA entering into a lease agreement with the public agency, the Authority is notified by some other public agency that it is interested in leasing the particular property, FMERA shall advertise the property as available for lease pursuant to [N.J.A.C. 19:31C–1.3](#) and award a lease as set forth in [N.J.A.C. 19:31C–1.14](#). In such instances, the notice for proposals advertised by FMERA may specify that only public agencies are eligible bidders for leasing the particular property.

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Subchapter 2. Sale of Real and Personal Property (Refs & Annos)

N.J.A.C. 19:31C-2.1

19:31C-2.1 Applicability and scope

Currentness

The Fort Monmouth Economic Revitalization Authority is promulgating these rules to govern the sale of real property and accompanying personal property as part of its mission in planning and implementing the redevelopment and reuse of Fort Monmouth and pursuant to authorization under [P.L. 2010, c. 51 \(N.J.S.A. 52:27I-18 et seq.\)](#). The Authority intends to execute the aforementioned task through the two processes set forth in these rules - the sealed bid process and the offer to purchase process when real and personal property have been advertised for sale.

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

CHAPTER EXPIRATION DATE

<Chapter 31C, Fort Monmouth Economic Revitalization Authority, expires June 15, 2027.>

Current through amendments included in the New Jersey Register, Volume 54, Issue 19, dated October 3, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 19:31C-2.1, NJ ADC 19:31C-2.1

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N.J.A.C. 19:31C–2.2

19:31C–2.2 Definitions

Currentness

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

“Authority” means the Fort Monmouth Economic Revitalization Authority.

“Board” means the Board of the Fort Monmouth Economic Revitalization Authority.

“Director” means the Director of the Fort Monmouth Economic Revitalization Authority.

“FMERA” means the staff responsible for carrying out the policies, mission and purpose of the Fort Monmouth Economic Revitalization Authority.

“Offer to purchase process” means an invitation to submit an offer to purchase a particular parcel that has been advertised as being available for sale through the offer to purchase process with the offer period remaining open until the date specified in the advertisement.

“Plan” means the Fort Monmouth Reuse and Redevelopment Plan prepared and adopted by the Authority's predecessor authority.

“Sealed bid process” means a solicitation for competitive sealed bids to purchase a particular parcel that has been advertised as being available for sale through the sealed bid process with a requirement that sealed bids be received by the advertised bid due date.

Credits

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N.J.A.C. 19:31C–2.2, NJ ADC 19:31C–2.2

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N.J.A.C. 19:31C–2.3

19:31C–2.3 Sealed bid process

Currentness

(a) For any real property and accompanying personal property to be sold through the sealed bid process, FMERA shall advertise a notice of each solicitation for sealed bids on the Authority's website and on the New Jersey State business portal and shall place an advertisement for same in the “Public/Legal Notice” section of the Star Ledger, the Asbury Park Press and if FMERA deems it appropriate, in other regional newspaper(s) or other publications. Advertisements on the Authority's website and the New Jersey State business portal shall be maintained until the close of the bidding period.

(b) In addition, FMERA may contact potential purchaser(s) directly to seek to increase the number of sealed bids received in response to an advertised solicitation to purchase.

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

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N.J.A.C. 19:31C–2.3, NJ ADC 19:31C–2.3

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N.J.A.C. 19:31C–2.4

19:31C–2.4 Sealed bid requests

Currentness

(a) The notice of solicitation for sealed bids shall request sealed bids for the purchase of a particular parcel of real property and accompanying personal property and shall include the time, date and format in which the sealed bids are to be submitted. The notice shall also include a name and phone number or other contact information potential purchaser(s) can use to obtain additional information about the solicitation.

(b) Each solicitation to purchase through the sealed bid process shall specify material terms of the sale that are to be proposed by bidders and material terms of sale that are required for the particular sale and not subject to bid which shall be specified either through the solicitation to purchase, a specimen form of purchase agreement, or on the Authority's website.

(c) Sealed bids will be opened on the date specified in the solicitation. After sealed bids have been publicly opened, FMERA may seek best and final sealed bids from one or more bidders that timely submitted a responsive bid for the particular real property and accompanying personal property.

Credits

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N.J.A.C. 19:31C–2.4, NJ ADC 19:31C–2.4

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N.J.A.C. 19:31C–2.5

19:31C–2.5 Offer to purchase process

Currentness

(a) Before advertising a particular parcel of real property and accompanying personal property as being available for sale through the offer to purchase process, the Board shall review and approve a recommendation of the Director and FMERA to offer the property for sale through the offer to purchase process. In its determination to use the offer to purchase process, the Board also may consider various factors including, but not limited to, purchase price, jobs to be created and timing, to determine whether the offer to purchase process will enhance the economic value to FMERA or Fort Monmouth. If a party has approached the FMERA with an offer, in its determination to use the offer to purchase process, the Board also may consider the proposed purchase price as compared to a valuation of the real and/or personal property established by an appraisal report prepared by a professional licensed appraiser.

(b) For any real property and accompanying personal property to be sold through the offer to purchase process, FMERA shall advertise a notice of the availability of the property for sale through the offer to purchase process on the Authority's website, on the New Jersey State business portal and shall place an advertisement for same in the “Public/Legal Notice section of the Star Ledger, the Asbury Park Press and if FMERA deems it appropriate, in possibly other regional newspaper(s) or publications.

(c) Each notice of availability for sale through the offer to purchase process shall specify the period of time for submitting an offer to purchase the particular property which period for submitting offers to purchase shall not be less than 30 days.

(d) In addition, FMERA may contact potential purchaser(s) directly to seek to increase the number of offers to purchase received in response to an advertised solicitation.

Credits

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N.J.A.C. 19:31C–2.6

19:31C–2.6 Submission of sealed bids

Currentness

(a) All sealed bids shall be submitted on or before the specified time and date required by the public notice and contain all information requested by FMERA. Unless otherwise specified in the notice, a sealed bid shall not be submitted by telephone, facsimile, or other electronic means.

(b) All sealed bids shall include a certified, cashiers or bank check made payable to the Authority in the amount of 10 percent of the bid price, which shall be held by the Authority as a deposit and applied to the purchase price at closing for the accepted bid, and returned to all others.

(c) Deposit checks shall be deposited by FMERA into an interest bearing account with interest accruing to the benefit of the bidder. Deposits paid by unsuccessful bidders, with accrued interest, shall be returned when FMERA issues its notice of intent to award a purchase contract in accordance with [N.J.A.C. 19:31C–2.17\(e\)](#).

(d) Sealed bids received by FMERA shall be held unopened until the close of the bidding period, at which time all bids received shall be publicly opened and the identities of the bidders, but not the substance of the bids, will be read.

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

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N.J.A.C. 19:31C–2.6, NJ ADC 19:31C–2.6

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N.J.A.C. 19:31C-2.7

19:31C-2.7 Submission of offers to purchase

Currentness

(a) The time for submitting an offer to purchase shall remain open until the date specified in the advertisement. Unless otherwise specified in the notice, an offer to purchase shall not be submitted by telephone, facsimile, or other electronic means.

(b) All offers to purchase shall include a certified, cashiers or bank check made payable to the Authority in the amount of five percent of the offer price, which shall be held as an initial deposit. An additional deposit of 10 percent of the offer price shall be payable to the Authority on the earlier of:

1. FMERA and the potential purchaser entering into an exclusive negotiating period in accordance with [N.J.A.C. 19:31C-2.16](#); or
2. A purchase agreement being fully negotiated and signed by the purchaser. The initial deposit and the additional deposit shall be applied to the purchase price at closing.

(c) Deposit checks shall be deposited by FMERA into an interest bearing account with interest accruing to the benefit of the party who submitted the offer to purchase. In the event an offer to purchase cannot be negotiated into an acceptable offer, deposits paid by the party that submitted the offer, with accrued interest, shall be returned when the Board determines to terminate negotiations regarding the particular offer to purchase.

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

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N.J.A.C. 19:31C-2.7, NJ ADC 19:31C-2.7

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N.J.A.C. 19:31C–2.8

19:31C–2.8 Extension of time to submit sealed bids

Currentness

The Director may extend the time for opening sealed bids at the request of a potential purchaser who notifies FMERA that he or she intends to submit a sealed bid and gives valid reasons why he or she will not meet the formal opening date. The potential purchaser making this request shall do so in writing and specify the length of additional time requested. The written request must be received by FMERA no later than one week prior to the close of the bid submission period. If granted, extensions of time for opening of sealed bid(s) shall be applicable to all potential purchaser(s) and shall be posted only on the Authority's website. All sealed bid(s) shall be held and remain sealed until the expiration of the time extension granted by the Director.

Credits

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N.J.A.C. 19:31C–2.9

19:31C–2.9 Sealed bid prices

Currentness

(a) A sealed bid shall include all material information required by the solicitation. Prices shall be typewritten, photocopied, or written in ink or some other indelible substance.

(b) Unless the solicitation states otherwise, the prices submitted with a sealed bid shall remain effective for 90 days after the opening date, subject to any negotiations conducted in accordance with [N.J.A.C. 19:31C–2.15\(a\)](#).

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

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N.J.A.C. 19:31C–2.9, NJ ADC 19:31C–2.9

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N.J.A.C. 19:31C–2.10

19:31C–2.10 Withdrawal of sealed bid

Currentness

(a) Prior to the opening of the sealed bid(s), a potential purchaser may, for any reason, request the withdrawal of his or her sealed bid. The request shall be made in writing to FMERA and shall be signed by a person authorized to submit the sealed bid (such as the owner or owner's designated representative, or an attorney or real estate broker with written permission to negotiate and act as attorney in fact for owner). Proof of authorization shall accompany the request.

(b) After the opening of the sealed bid(s), if either the potential purchaser(s) or FMERA discover a material error in a sealed bid, the potential purchaser(s) may request the withdrawal of the sealed bid. If the error is discovered by FMERA, the potential purchaser(s) will be notified in writing, and the potential purchaser will have five business days from receipt of the notice to request withdrawal of the sealed bid. Any request to withdraw from the potential purchaser(s) shall be addressed to FMERA which will return the sealed bid if the potential purchaser(s) can demonstrate that he or she exercised reasonable care in preparing and submitting the sealed bid, and that it would be unconscionable for FMERA to enforce the proposed purchase agreement. The decision to grant or deny any such request shall be at the sole discretion of the Director.

Credits

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N.J.A.C. 19:31C–2.11

19:31C–2.11 Correction of pricing error

Currentness

FMERA shall correct a pricing error in a sealed bid under the following circumstance: Unless the solicitation states otherwise, or the result would be unconscionable, where a sealed bid price contains a discrepancy between a unit price and a total price based on those units, the unit price shall govern. Where the sealed bid price contains any other price discrepancy, FMERA shall determine the price if the sealed bid contains clear evidence of the intended price.

Credits

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N.J.A.C. 19:31C–2.12

19:31C–2.12 Verification of sealed bid or offer to purchase

Currentness

FMERA may seek information outside of the sealed bid or offer to purchase to verify the accuracy and responsiveness of the sealed bid or offer to purchase, and whether the potential purchaser(s) is responsible. FMERA may request such information from the potential purchaser(s), from public records, or from others familiar with the potential purchaser(s). Such information may clarify, but not modify, a sealed bid or offer to purchase. Such investigation may include, but shall not be limited to, contacting the potential purchaser surety companies, financial institutions, and review of corporate or personal financial records, reports and statements.

Credits

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N.J.A.C. 19:31C–2.13

19:31C–2.13 Rejection of all sealed bids or offers to purchase, re-advertisement and termination

Currentness

The Authority reserves the right to reject all sealed bid(s) and offer(s) to purchase and to either re-advertise or terminate an advertised solicitation if the Authority determines that insufficient competition results from the initial advertisement, the price is unfavorable in the current market, or for any other reason in the best interests of the Authority or the redevelopment plans for Fort Monmouth as determined by the Authority.

Credits

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N.J.A.C. 19:31C–2.14

19:31C–2.14 Evaluation

Currentness

(a) FMERA shall evaluate each sealed bid and offer to purchase received in accordance with this subchapter and shall identify the sealed bid(s) or offer(s) to purchase determined to be responsive to all material elements set forth in the solicitation or notice of availability, respectively, which may include, but not be limited to:

1. The purchase price;
2. The estimated jobs to be created at or relocated to the parcel;
3. The purchase term including due diligence period as well as payment for such period;
4. The proposed project capital investment;
5. The potential purchaser's financial capacity to meet the proposed terms of purchase and project completion;
6. The future use of the property;
7. The impact to the host municipality; and
8. Confirmation that the potential purchaser's proposed use is consistent with the Plan.

(b) Evaluation of sealed bids and offers to purchase will be made based on the best interests of the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered. In evaluating purchase price, FMERA will consider purchase price as compared to a valuation of the real and/or personal property established by an appraisal report prepared by a professional licensed appraiser. FMERA may accept a lower purchase price from a governmental purchaser or public/private partnership if the proposal is based upon a significant creation of jobs or investment in the technology sector.

Credits

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N.J.A.C. 19:31C–2.15

19:31C–2.15 Negotiations

Currentness

(a) When the sealed bid process is used to sell property, FMERA may negotiate with one or more bidders that has submitted advantageous sealed bid(s) terms that are in the best interests of the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered, in accordance with the evaluation criteria in [N.J.A.C. 19:31C–2.14](#). FMERA reserves the right to negotiate with some but not all potential purchasers who submitted a sealed bid based on initial submissions.

(b) When the offer to purchase process is used to sell property, from time to time as offers are received, FMERA may negotiate terms of sale that are in the best interests of the Authority and the redevelopment plans for Fort Monmouth, price and other factors considered, in accordance with the evaluation criteria in [N.J.A.C. 19:31C–2.14](#). Negotiating with a potential purchaser will not preclude FMERA from negotiating with other potential purchasers unless FMERA has entered into an exclusive negotiating period with a potential purchaser in accordance with [N.J.A.C. 19:31C–2.16](#).

Credits

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N.J.A.C. 19:31C–2.16

19:31C–2.16 Exclusive negotiating period

Currentness

(a) When the offer to purchase process is used to sell property and upon the request of a party who has made an offer to purchase a particular parcel of real property and accompanying personal property, FMERA may agree that it will not negotiate with any other party for that particular property provided that the following conditions are met:

1. The time for submitting offers to purchase that particular property has expired;
2. FMERA determines there is a reasonable likelihood that the exclusive negotiating period will lead to an offer to purchase that will be acceptable to the Authority;
3. Subject to extensions pursuant to (b) and (c) below, an exclusive negotiating period shall not exceed 45 days;
4. The prospective purchaser makes an addition deposit of 10 percent of the purchase price; and
5. The prospective purchaser agrees in writing to negotiate exclusively with FMERA during the exclusive negotiating period and terminate negotiations and discussions with other parties who seek to sell or lease competing real property.

(b) The Director may extend an exclusive negotiating period for an additional 30 days.

(c) The Board may extend an exclusive negotiating period for such period of time and upon such terms and conditions as the Board determines to be in the best interests of the Authority and the redevelopment plans for Fort Monmouth considering price and other factors.

Credits

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N.J.A.C. 19:31C–2.17

19:31C–2.17 Recommendation, review and award

Currentness

- (a) The Director and FMERA shall recommend to the Board bids and offers to purchase, which may have been modified through negotiations, that will provide purchase agreements which are in the best interests of the Authority and the redevelopment plans for Fort Monmouth considering price and other factors. Any recommendation to accept a bid or offer to purchase shall also identify competing bids or offers to purchase that will be rejected by awarding a purchase agreement to the selected purchaser.
- (b) For sales conducted through the sealed bid process, the Director and FMERA may recommend to the Board that all bids should be rejected and no notice of intent to award a purchase agreement be made and that the real property and accompanying personal property be re-advertised for bids or any other appropriate action.
- (c) For sales conducted through the offer to purchase process, the Director and FMERA may recommend to the Board that negotiations regarding a particular offer to purchase should terminate and the potential purchaser's deposit, with accrued interest, be returned.
- (d) The Board shall determine whether to issue a notice of intent to award a purchase agreement and reject competing bids and offers to purchase; to reject all bids; to terminate negotiations regarding a particular offer to purchase; to issue a new notice of availability of property for sale; or to take other appropriate action.
- (e) Upon approval by the Board of an award of a purchase contract, FMERA shall issue a notice of intent to award a purchase agreement and send it to all bidders or parties who submitted an offer to purchase. The notice of intent to award a purchase agreement shall set forth all of the material terms of the purchase agreement. FMERA shall finalize the purchase agreement which shall be executed by the Director.

Credits

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N.J.A.C. 19:31C-2.17, NJ ADC 19:31C-2.17

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Chapter 31C. Fort Monmouth Economic Revitalization Authority (Refs & Annos)
Subchapter 2. Sale of Real and Personal Property (Refs & Annos)

N.J.A.C. 19:31C–2.18

19:31C–2.18 Challenges

Currentness

(a) After the date of the notice of intent to award a particular purchase agreement, unsuccessful bidders or parties who submitted an offer to purchase for the particular property, as applicable, will have 10 business days from the date of the notice to review:

1. The sealed bids or offers to purchase submitted by other potential purchasers;
2. FMERA's comparative summary of sealed bids or offers to purchase received;
3. The records of the negotiations, if any; and
4. Any supporting documents to (a)1, 2 and 3 above.

(b) Challenges to the notice of intent to award a particular purchase agreement shall be submitted in writing to the Director within 10 business days from the date of the letter giving notice of intent to award and shall state with specificity all arguments, materials and/or other documents that may support the challenger's position that the proposed award should be overturned. The Director may extend the time for reviewing documents or submitting a challenge on good grounds shown to the satisfaction of the Director in his or her sole discretion.

(c) If a challenge is timely received, the Director shall assign a hearing officer to review the challenge and make a final recommendation to the Board. The Director, in consultation with the hearing officer, has sole discretion to determine if an oral presentation by the challenger is necessary to reach an informed decision on the merits of the challenge. Challenges of the type described in this subchapter, for the purpose of this chapter, are not contested cases subject to the requirements of the Administrative Procedure Act, [N.J.S.A. 52:14B–1 et seq.](#), and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

CHAPTER EXPIRATION DATE

<Chapter 31C, Fort Monmouth Economic Revitalization Authority, expires June 15, 2027.>

Current through amendments included in the New Jersey Register, Volume 54, Issue 19, dated October 3, 2022. Some sections may be more current, see credits for details.

N.J.A.C. 19:31C-2.18, NJ ADC 19:31C-2.18

End of Document

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New Jersey Administrative Code
Title 19. Other Agencies
Subtitle I. New Jersey Economic Development Authority
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N.J.A.C. 19:31C–2.19

19:31C–2.19 Documents considered public information

Currentness

(a) For sales conducted through the sealed bid process, after FMERA's issuance of notice of intent to award a purchase agreement, sealed bids and other documents submitted by potential purchasers (excluding those items exempt from public access pursuant to [N.J.S.A. 47:1A–1 et seq.](#)) shall be considered public information, notwithstanding any disclaimers submitted by the potential purchaser(s) to the contrary.

(b) For sales conducted through the offer to purchase process, after a purchase agreement has been signed by the Authority and a purchaser, documents submitted by potential purchasers (excluding those items exempt from public access pursuant to [N.J.S.A. 47:1A–1 et seq.](#)) shall be considered public information, notwithstanding any disclaimers submitted by the potential purchaser(s) to the contrary.

Credits

Adopted by R.2012 d.40, effective February 21, 2012. Adopted by [52 N.J.R. 1274\(c\)](#) R.2020 d.065, effective June 15, 2020.

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