

P.L. 1997, CHAPTER 243, *approved September 5, 1997*
Assembly, No. 1706 (*Third Reprint*)

1 **AN ACT** concerning certain notifications relating to bidding on local
2 public contracts and amending P.L.1971, c.198.

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

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

9 23. ³a.³ Advertisements for bids; bids; general requirements. All
10 advertisements for bids shall be published in a legal newspaper
11 sufficiently in advance of the date fixed for receiving the bids to
12 promote competitive bidding, but in no event less than 10 days prior
13 to such date; except that all advertisements for bids on contracts for
14 the collection and disposal of municipal solid waste shall be published
15 in a legal newspaper circulating in the county or municipality, and in
16 at least one newspaper of general circulation published in the State,
17 sufficiently in advance of the date fixed for receiving the bids to
18 promote competitive bidding, but not less than 60 days prior to that
19 date.

20 ³b.³ The advertisement shall designate the manner of submitting
21 and the method of receiving the bids and the time and place at which
22 the bids will be received. If the published specifications provide for
23 receipt of bids by mail, those bids which are mailed to the contracting
24 unit shall be sealed and shall only be opened for examination at such
25 time and place as all bids received are unsealed and announced. At
26 such time and place the contracting agent of the contracting unit shall
27 publicly receive the bids, and thereupon immediately proceed to unseal
28 them and publicly announce the contents, which announcement shall
29 be made in the presence of any parties bidding or their agents, who are
30 then and there present, and shall also make proper record of the prices

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALG committee amendments adopted March 25, 1996.

² Assembly floor amendments adopted May 6, 1996.

³ Senate SCO committee amendments adopted January 14, 1997.

1 and terms, upon the minutes of the governing body, if the award is to
2 be made by the governing body of the contracting unit, or in a book
3 kept for that purpose, if the award is to be made by other than the
4 governing body, and in such latter case it shall be reported to the
5 governing body of the contracting unit for its action thereon, when
6 such action thereon is required. No bids shall be received after the time
7 designated in the advertisement.

8 ³[¹Except as provided below, notice of revisions or addenda to
9 advertisements or bid documents relating to bids shall, no later than
10 five days, Saturdays, Sundays and holidays excepted, prior to the date
11 for acceptance of bids, be published in a legal newspaper and be made
12 available by notification in writing by certified mail to any person who
13 has submitted a bid or who has received a bid package; except that
14 notice of revisions or addenda to advertisements or bid documents
15 relating to bids on contracts for the collection and disposal of
16 municipal solid waste shall be published in a legal newspaper
17 circulating in the county or municipality, and in at least one newspaper
18 of general circulation published in the State, no later than five days,
19 Saturdays, Sundays and holidays excepted, prior to the date for
20 acceptance of bids.¹]

21 c.³ Notice of revisions or addenda to advertisements or bid
22 documents ³[relating to ¹construction¹ bids shall be ¹[received by] sent
23 to¹ any person who has submitted a bid or who has received a bid
24 package ¹or who has filed a notification request with the governing
25 body of the contracting unit¹, no later than ¹[five] seven¹ days,
26 Saturdays, Sundays and holidays excepted, prior to the date for
27 acceptance of bids[, be published in a legal newspaper and be made
28 available by notification in writing by certified mail to any person who
29 has submitted a bid or who has received a bid package]. Such
30 notification shall be made in writing by certified mail, return receipt
31 requested, by facsimile transmission with return facsimile receipt, or
32 by next day delivery carrier¹]; except that notice of revisions or
33 addenda to advertisements or bid documents relating to bids on
34 contracts for the collection and disposal of municipal solid waste shall
35 be published in a legal newspaper circulating in the county or
36 municipality, and in at least one newspaper of general circulation
37 published in the State, no later than 5 days, Saturdays, Sundays and
38 holidays excepted, prior to the date for acceptance of bids]¹. ²Such
39 revisions or addenda to advertisements or bid documents shall not
40 increase the total cost of the contract.²] shall be provided as follows:

41 1) For all contracts except those for construction work and
42 municipal solid waste collection and disposal service, notice shall be
43 published no later than five days, Saturdays, Sundays, and holidays
44 excepted, prior to the date for acceptance of bids, in an official
45 newspaper of the contracting unit and be provided to any person who
46 has submitted a bid or who has received a bid package, in one of the

1 following ways: i) in writing by certified mail or ii) by certified
2 facsimile transmission, meaning that the sender's facsimile machine
3 produces a receipt showing date and time of transmission and that the
4 transmission was successful or iii) by a delivery service that provides
5 certification of delivery to the sender.

6 2) For all contracts for construction work, notice shall be provided
7 no later than seven days, Saturday, Sundays, or holidays excepted,
8 prior to the date for acceptance of bids, to any person who has
9 submitted a bid or who has received a bid package in any of the
10 following ways: i) in writing by certified mail or ii) by certified
11 facsimile transmission, meaning that the sender's facsimile machine
12 produces a receipt showing date and time of transmission and that the
13 transmission was successful or iii) by a delivery service that provides
14 certification of delivery to the sender.

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

20 d.³ Failure of the contracting unit to advertise for the receipt of
21 bids or to provide proper notification of revisions or addenda to
22 advertisements or bid documents related to bids as prescribed by this
23 section shall prevent the contracting unit from accepting the bids and
24 require the readvertisement for bids ³pursuant to subsection a. of this
25 section. Failure to obtain a receipt when good faith notice is sent or
26 delivered to the address or telephone facsimile number on file with the
27 contracting unit shall not be considered failure by the contracting unit
28 to provide notice³.

29 (cf: P.L.1991, c.381, s.50)

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31 2. This act shall take effect ¹[immediately] on the first day of the
32 fourth month next following enactment¹.

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37 Changes notice requirements for revisions or addenda to
38 advertisements relating to bids or bid documents under "Local Public
39 Contracts Law."