

List of Exemptions by Statute to Publicly Advertised Bids

Waivers of advertising are exceptions to the statutory requirement that purchases having a value of greater than \$39,400 for Public Works and \$110,900 for Non-Public Works be procured through formal publicly advertised bidding. However, the University must adhere to the requirement for competitive bidding.

To seek such a waiver for a purchase over any of these two thresholds, the user department should review the existing University contracts or the cooperative contracts available for use. Alternatively, the user department can contact Procurement Services to ascertain whether the item or service is available through an existing University contract or whether a cooperative purchasing agreement might be a viable procurement option. If none of these contracting options is viable, the user department will be advised by Procurement Services whether the item or service should be procured through a formal publicly advertised bid or may be procured through a waiver of advertising.

The Montclair State University Act permits waivers of advertising contracts in any of the following circumstances:

NJSA 18A:64-56a:

- (1) – Professional services.
- (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.
- (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.
- (4) – The doing of any work by employees of the University.
- (5) – The printing of all legal notices and legal briefs, records, and appendices to be used in any legal proceeding to which the University may be a party and the use of electronic data or media services, including the internet...
- (6) – Textbooks, copyrighted materials, student-produced publications and services incidental thereto, library materials including without limitation books, periodicals, newspapers, "... " including electronic databases and digital formats.
- (7) – Food supplies and services, including food supplies and management contracts for student centers, dining rooms, and cafeterias, and perishable foods or subsistence supplies.
- (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 ...

- (9) – Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with the services.
- (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.
- (11) – Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services.
- (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.
- (13) – The acquisition of artifacts or other items of unique intrinsic, artistic, or historic character.
- (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...
- (15) – Professional consulting services.
- (16) – Entertainment, including without limitation theatrical presentations, band and other concerts, movies, and other audiovisual productions.
- (17) – Contracts employing funds created by student activities fees charged to students or otherwise raised by students and expended by student organizations.
- (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.
- (19) – Information technology.
- (20) – Personnel recruitment and advertising, including without limitation advertising seeking student enrollment.
- (21) – Educational supplies, books, articles of clothing, and other miscellaneous articles purchased by the University for resale to students and employees.
- (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.
- (23) – Items available from suppliers at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions.
- (24) – Management contracts for bookstores, performing arts centers, residence halls, parking facilities, and building operations.
- (25) – Consulting services involving information technology, curricular or programmatic review, fundraising, transportation, safety, or security.
- (26) – Construction management services for construction, alteration, or repair of any building or improvement.
- (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.

(28) – Banking and investment services.

(29) – Energy supply, such as electric and gas, from a third-party supplier.

(30) – Hazardous waste collection and disposal services.

(31) – Supplies and services for the administration of study abroad or remote programs.

(32) – Transportation services.

(33) – Vehicle Maintenance.

(34) – Vending Services.

(35) – Medical Testing.

NJSA 52:34-9:

(a) (36) – Services to be performed by the contractor which are of a technical nature.

(c) (37) – The lease of office space, office machinery, buildings or real property as may be required for the conduct of the University's business.

(d) (38) – The acquisition of real property by gift, grant, purchase or any other lawful manner in the name of and for the use of the University for the purpose of the administration of the University's business.

NJSA 52:34-10:

(d) (39) – More favorable terms can be obtained from a primary source of supply.

(e) (40) – Articles of wearing apparel which are styled or seasonal in character;

(f) (41) – Commodities traded on a national commodity exchange to be purchased or when fluctuations of the market require immediate action.

NJSA 18A:64-56b (42) – 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.

NJSA 18A:64-56c (43) – The State College has advertised for bids on two occasions without an award.

NJSA 18A:64-56d (44) – Awarded through a reverse auction for the purchase of utilities and other commodities.

Cooperative Contract Over \$500,000:

Cooperative contracts are exempt from public bidding. A Waiver of Advertising form is only required for Cooperative Contracts at or over \$500,000 when Board of Trustees approval is needed.