



**THE NASSAU COUNTY LEGISLATURE
OFFICE OF LEGISLATIVE BUDGET REVIEW
MAURICE CHALMERS, DIRECTOR
FISCAL IMPACT STATEMENT**

TITLE:

A Local Law to amend the County Charter and Administrative Code in relation to harmonizing purchasing procedures with applicable State Law Statutes.

SUMMARY OF LEGISLATION:

This Local Law allows the County to award purchase contracts of apparatus, materials, equipment and supplies and contracts for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies on the basis of “best value” consistent with New York State (NYS) General Municipal Law (GML) §103. The purpose of this new provision is not intended to be in lieu of the “lowest responsible bidder” standard but, rather is intended to be an additional alternative as now provided for by GML §103. The law will incorporate the new “piggybacking” provisions of GML §103 subdivision 16 into the County Charter.

According to the Office of the New York State Comptroller, many local governments have been approached by vendors offering goods and services under other governmental contracts and, in some cases, vendors have asserted that the contract falls within the exception in GML §103 (16). By adopting GML §103 subdivision 16, political subdivisions such as Nassau County, can award the contract on the basis of determining the best value. It is the responsibility of local officials to review each proposed procurement to determine, on advice of the local government’s counsel as appropriate, whether the procurement falls within the exception. To assist local government officials in undertaking this review, the following guidance is offered.

There are three prerequisites that must be met in order for procurement of apparatus, materials, equipment and supplies, and related installation, repair and maintenance services, to fall within this exception:

- (1) The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein.
- (2) The contract must have been made available for use by other governmental entities.
- (3) The contract must have been “let to the lowest responsible bidder or on the basis of best value in a manner consistent with this section.”

Best value is defined in the New York State Finance Law as the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsible offerers. Wherever possible, it should reflect objective and quantifiable analysis. It may also identify a quantitative factor

for offerers that are small businesses or certified minority or women owned business enterprises (MWBE).

Where, in the past, it was the Purchasing Department's position to use the "lowest responsible bidder specifications", it will now review other criteria and determine the impact on the procurement process.

Making awards to MWBE vendors would be especially important since both Federal and State Grants provide that at least 20% of the grant funds be awarded to MBWE vendors.

The local law also would update the direct award limitation, raising it from \$500 to \$2,500. This would conform the limit to the amount set by Resolution 762-1969 which was for the purchase of replacement parts. Finally, certain monetary thresholds for bids will be amended. This Local Law will allow Nassau County to adopt sealed bid monetary thresholds of \$20,000 for commodity bids and \$35,000 for public work bids. Suffolk County and Long Island Joint Purchasing Council have accepted these increased thresholds.

Finally, this Local Law shall consolidate certain provisions in the Administrative Code (such as "Green Procurement" provisions) into the County Charter. This will allow the County to implement green procurement measures to help County agencies prevent waste and pollution by considering products that have a lesser or reduced effect on human health and the environment when compared with competing products or services.

EFFECTIVE DATE:

This local law would take effect immediately.

ECONOMIC IMPACT:

The proposed law is not expected to have a significant economic impact on the local economy.

FISCAL IMPACT:

The department estimates that Local Law could generate savings of approximately \$40,000 per year in advertising and supply costs from fewer sealed bids. The new thresholds are \$20,000 for commodities and \$35,000 for public works. Department productivity is expected to increase in other areas which is a result of employees preparing fewer bids.

SOURCES OF INFORMATION:

Shared Services (formerly Purchasing Department)

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