



Committee Meeting: Policy & Governance Committee	Date: March 8, 2019
Committee Chair: Kathleen Masiello	
New or Edited: New	

POLICY NAME: Spend Authority Delegation Policy

POLICY TYPE: Board

SUBMITTED BY: Penelope Howard, EVP for Administration and Finance

ISSUE OR STATEMENT OF PURPOSE: To delegate the spend authority given to the SUNY Erie Community College Board of Trustees in the 2003 Erie County Local Law No. 3 for all contracts for professional, technical and other consultant services to the SUNY Erie Community College President.

NEW OR EDITED POLICY: New

The SUNY Erie Community College Board of Trustees (BOT) delegates the spend authority provided to the College in the Erie County local autonomy law to the SUNY Erie Community College President.

This delegation provides College management the ability to timely manage operational activities for the College within the annual budget approved by the BOT and Erie County. Any spend that would exceed the approved annual budget requires approval by the BOT before the spend may be executed.

This policy works in conjunction with the managerial policies on procurement as well as state and county thresholds regarding when informal/formal bids and requests for proposals must be sought.

DOES IT SUPERCEDE A POLICY/WHICH ONE: N/A

POLICY & GOVERNANCE COMMITTEE RECOMMENDED ACTION:

Policy & Governance Committee recommends the Board of Trustees approve this Board policy under Committee Briefings, Policy and Governance Committee.

POLICY & GOVERNANCE COMMITTEE MEMBERS PRESENT:

Trustee Kathleen Masiello, Provost and Executive Vice President Douglas Scheidt, Executive Vice President for Administration and Finance Penelope Howard, VP Human Resources, Equity and Inclusion Tracey Cleveland (by phone), Vice President of Enrollment Management Steven Smith, Director of Registrar Paul Lamanna, Dean of Liberal Arts and Sciences Joanne Colmerauer, Dean of Liberal Arts and Sciences Jamie Smith, Professor and College Senate Representative Michael Delaney, Dean of Students Jason Perri

DATE OF BOARD APPROVAL: March 28, 2019



POLICY NAME: Spend Authority Delegation Policy- **Continued**

POLICY & GOVERNANCE COMMITTEE TEAM FOLLOW-UP:

Following Trustee approval, this Board policy will be included in the SUNY Erie Community College Board of Trustees Policy Manual.

INFORMATION/INPUT CONSIDERED DURING POLICY & GOVERNANCE COMMITTEE DELIBERATIONS:

Local Law 3-2003 (Exhibit A)

Erie County Administrative Code 3.06 and 3.07 (Exhibit B)

Erie County Administrative Code 19.08 (Exhibit C)

New York Consolidated Laws, General Municipal Law – GMU §104-B (Exhibit D)

The Policy has been reviewed and discussed at the Policy & Governance Committee meeting of March 8, 2019.

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
MAR 26 2003
MISCELLANEOUS
& STATE RECORDS

County
 City
 Town
 Village

of Erie
Local Law No. 3 of the year 2003.

A local law authorizing Erie Community College to have the
(Insert Title)
authority and responsibility for the performance
of its own personnel, payroll and purchasing functions.

Be it enacted by the Legislature of the
(Name of Legislative Body)

County
 City
 Town
 Village

of Erie as follows:

Section 1. Declaration of Purpose. The Board of Trustees of Erie Community College, formerly known as the State University Institute of Applied Arts & Sciences at Buffalo and the Erie County Technical Institute (hereinafter the "College") and the Erie County Executive have requested that the County of Erie provide the College with greater autonomy with regard to Purchasing, Personnel and Payroll functions (collectively the "Functions"). The Board of Trustees and the County Executive believe that granting these Functions to the College will streamline the business affairs of the College, reduce costs, and help improve the College's educational services. Furthermore, It is believed that granting the College greater autonomy in connection with these Functions will help facilitate the College's unconditional re-accreditation by the Commission on Higher Education of the Middle States Association. Consequently, the Legislature hereby declares its support for granting the College greater autonomy with regard to these Functions.

Section 2. Local Law No. 1-1959, constituting the Erie County Charter, as amended, is hereby amended as follows:

Article XVI is hereby amended by adding a new Section 1613 which shall read as follows:

Section 1613. Board of trustees of Erie community college, additional powers. The powers of the board of trustees of Erie community college, formerly known as the State University Institute of Applied Arts & Sciences at Buffalo and the Erie county technical Institute (hereinafter "Board"), shall continue as provided by law, except that the following additional powers shall be conveyed to the Board:

A. 1. The Board shall have the authority to make all purchases and contracts, including leases of personal property, for all furniture, appliances, fixtures, equipment, materials and supplies necessary for the efficient operation of the college to the extent that appropriations have been provided therefor in

the college budget. The Board, or the president of the college acting with the authority of the Board, shall designate an individual to be its purchasing agent who shall supervise and manage the personnel responsible for the purchasing duties and perform the responsibilities hereunder in conformity with the provisions of this section, generally accepted principles of management and procurement, and policies established from time to time by the Board. Except as otherwise provided by law, authority to enter into contracts for capital improvements and real property leases of college property shall continue to be vested in the county.

2. The procedures for purchasing, including public advertising and competitive bidding, shall be the same as those set forth in section three hundred six of the charter and section 3.06 and 3.07 of the administrative code as these sections now exist or hereafter may be amended, except that where those sections specify that actions may be taken by the county legislature, the action of the Board shall be substituted as sufficient, and where those sections specify that action may be taken by the county executive, the division of purchase and/or the purchasing director, the action of the purchasing agent of the college shall be substituted as sufficient.

3. The Board shall have the authority to approve all contracts for professional, technical and other consultant services to be rendered to or for the college, which are not required to be competitively bid pursuant to the General Municipal Law, provided that such services to be rendered to or for the college shall not exceed \$50,000, and provided further that the Board complies with the procedure for requests for proposals set forth in section 19.08 of the administrative code as this section now exists or hereafter may be amended, except that where section 19.08 specifies that action shall be taken by the county legislature, the action of the Board shall be substituted as sufficient, and where section 19.08 specifies that action shall be taken by the department head or administrative unit head, such action may be taken by the president of the college.

4. No services provided by employees of the college shall be contracted out without complying with appropriate existing collective bargaining agreements and following the procedures required by section two hundred nine of the civil service law of the state of New York, if applicable.

5. All contracts entered into pursuant to this subsection A shall not be valid and enforceable until approved as to form by the county attorney. With regard to contracts entered into pursuant to subdivision 1 of this subsection A, such contracts shall be approved by the purchasing agent of the college and the county attorney. With regard to contracts entered into pursuant to subdivision 3 of this subsection A, such contracts shall be approved by the Board and the

county attorney. The Board may designate the president of the college to execute, on behalf of the Board, contracts entered into pursuant to subdivision 3 of this subsection A.

6. No purchases shall be made pursuant to this subsection A unless sufficient funds exist therefore from budgetary appropriations or other funding sources, or except as otherwise permitted by law. However, the Board shall not be prevented from entering into any lawful contract or lease of personal property providing for the payment of funds beyond the end of the college's fiscal year.

B. 1. Subject to the civil service law and rules and to all provisions of applicable collective bargaining agreements, the Board shall have the power, through its existing budgetary process, to create and abolish full-time and part-time permanent or temporary positions of employment. The Board, or the president of the college acting with the authority of the Board, will designate a personnel agent who shall act in place of the Erie county commissioner of personnel and have the same powers and duties of the commissioner of personnel as set forth in the Erie county charter and administrative code, with regard to employment and personnel matters within the college. The president or the college's personnel agent, acting with the authority of the Board, may execute all necessary documents relating to the appointment of employees and the payroll of the college. Subject to the requirements of Civil Service law and rules and provisions of existing collective bargaining agreements, the college personnel agent shall submit required documentation to the county commissioner of personnel. Assignment of job groups, to the extent required by law, shall be certified by the Erie county department of personnel. When the college is unable to fill a non-managerial/confidential position with a qualified person at the lowest salary level for the job group assigned to the position, the Board may fill such position at a higher salary increment within the assigned job group.

2. Except as otherwise permitted by law, no position of employment shall be created by the college unless sufficient funds exist therefore from budgetary appropriations or other funding sources. Subject to existing or future laws, regulations and collective bargaining agreements, positions may be created and abolished by the college during its fiscal year.

3. Notwithstanding any provision contained in this subsection B, the county and the college shall negotiate on behalf of the college, and the county attorney shall approve as to form, all collective bargaining agreements and other contracts with civil service unions to which the college is a signatory. With respect to collective bargaining agreements and other contracts with civil service unions to which the college is not a signatory, but involve employees at

the college, the college shall be permitted to participate in negotiations as part of a negotiating team.

C. All provisions of this charter and the administrative code relating to Erie community college, which have not otherwise been amended by this section or other local laws, shall continue in full force and effect.

Section 3. The annual county contribution to the operating budget of the college, to the extent not previously advanced, shall be paid to the college in one lump sum no later than the fifteenth (15th) day of April in each calendar year. Should the county approve a budgetary increase for the college on or after the fifteenth (15th) day of April for the fiscal year commencing on the first (1st) day of September of the preceding calendar year, the additional contribution shall be paid to the college no later than fifteen (15) days after such approval.

Section 4. Nothing contained in this local law shall prohibit the county, at the request of the college, from contracting with the college to perform one or more Functions, or portions thereof, on behalf of the college.

Section 5. This local law may be amended at any time by a local law that is subsequently enacted by the Erie county legislature.

Section 6. This local law shall be effective upon its filing with the Secretary of State pursuant to Section 27 of the New York Municipal Home Rule Law.

ELISE M. CUSACK

CHARLES M. SWANICK

DALE W. LARSON

STEVEN P. McCARVILLE

BARRY A. WEINSTEIN

MICHAEL H. RANZENHOFER

JEANNE Z. CHASE

GREGORY P. FALKNER

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2003 of the (County)(City)(Town)(Village) of Erie was duly passed by the Erie County Legislature on March 6, 2003, and was (approved)(not approved)(repassed after ~~disapproval~~) by the County Executive and was deemed duly adopted on March 24, 2003, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20_____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20_____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ 2_____, above.

Paul W. Marshall
Clerk of the County legislative body. ~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

(Seal)

Date: March 25, 2003

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Erie

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

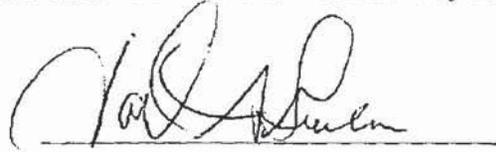
Brian D. White
Signature Brian D. White
Assistant County Attorney

Title _____

County
~~XXX~~ of Erie
~~XXXX~~
~~XXXXX~~

Date: 3/25/03

A Public Hearing was held on the foregoing Local Law Intro. No. 5-2003 on Monday, March 24, 2003, due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, JOEL A. GIAMBRA, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 24th day of March, 2003.



A Public Hearing was held on the foregoing Local Law Intro. No. 5-2003 on Monday, March 24, 2003, due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, JOEL A. GIAMBRA, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this 24th day of March, 2003.

Section 3.06 Division of purchase.

- a. The purchasing director shall be the head of the division of purchase. Such division shall have a deputy director.
- b. The purchasing director and the deputy purchasing director shall each give a surety bond to the county in a sum fixed by the county legislature, conditioned for the faithful performance of his duties, which bond shall be approved as to form by the county attorney and as to the sufficiency of surety by the county executive and filed in the office of the county clerk.
- c. The purchasing director shall (1) establish and maintain a central purchasing system; (2) establish and enforce standard specifications with respect to supplies, materials, equipment and such services as are specified hereinafter; (3) upon departmental or legislative request, the purchasing division shall inspect or supervise the inspection of deliveries of supplies, materials and equipment and determine their quality, quantity and conformance to specifications; (4) maintain and have charge of such storerooms and warehouses of the county as may be provided by the county legislature; (5) disburse and transfer the supplies, materials and equipment in his custody among the administrative units upon requisitions signed by the respective administrative head or by such employees as the administrative head shall designate; (6) make transfers of supplies, materials and equipment between administrative units; (7) sell or lease any surplus, obsolete or unused supplies, materials and equipment under such rules and regulations as may be established by act of the county legislature; (8) prepare annually an inventory of all property, real or personal, in his custody, and submit the same to the comptroller, finance commissioner and budget director; (9) upon request of any city, town, village, school district or other unit of local government in the county, act as purchasing agent for the same, either for all or for any part of its purchases, upon such conditions as may be prescribed by the county legislature; (10) perform such other duties as may be required by the county executive; (11) perform under the direction of the county executive all other duties of county purchasing agent under the laws of this state, not inconsistent with the provisions of this code.

Amended by Local Law No. 4 1982.

Section 3.07 Division of purchase; purchasing procedure.

- a. The division of purchase shall make all purchases of and contracts for supplies, materials, equipment and insurance for the county, the county legislature or any administrative unit, other than primary or election supplies or the county shall be liable. The division of purchase shall also purchase or contract for those services which are subject to bidding. A service contract which is subject to approval by the Erie county legislature or contracted for by a department head pursuant to charter or code authority shall not be considered a purchase or contract made by this division. The lease of real property shall not be considered a service for the county purchased or contracted by the division of purchase. The division of purchase will review contracts for services and shall contract for those services which are determined to be subject to bid. The county legislature shall fix a sum as the limit above which any such purchase or contract cannot be made without publishing an advertisement in a daily newspaper printed in the English language and

published in the county of Erie and having a circulation of not less than fifty thousand which advertisement shall invite sealed bids for the same, provided, however, that public advertisement shall not be required for purchase of perishable foodstuffs, drugs, dental and medical supplies or purchase of primary or election supplies or services. By a resolution adopted by a two thirds vote of all its members, the county legislature may exclude the purchase of other materials, supplies, equipment, insurance or services from the requirements of public advertisement. Such advertisement shall contain a statement of time when and the place where all bids received pursuant to such notice will be publicly opened and read. At least five days shall elapse between the first publication of such advertisement and the date specified therein for the opening and reading of bids. The purchasing director or the person designated by him to open the bids at the time and place specified shall make a record of such bids in such form and detail as the purchasing director shall prescribe. The contract shall be awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided in this section unless the county legislature by a two thirds vote shall determine that it will best promote the public interest that a bid other than that of the lowest bidder shall be accepted, and shall authorize, as hereinafter provided, the acceptance of such other bid. Where the bid of the lowest responsible bidder is in excess of one hundred thousand dollars (\$100,000) and the bidder's product is not manufactured within the county, or the bidder's service is not performed by a contractor whose principal place of business is located within the county, and where a difference of five percent or less exists between such low bid and the lowest bid submitted by a bidder residing or having a principal place of business in the county of Erie, the purchase director shall submit the bids to the legislature to determine whether or not it will best promote the public interest to award the bid to the lowest responsible bidder residing or having a principal place of business in the county of Erie. In the event the legislature does not adopt, at its first or second meeting after submission of said bids, a resolution determining that it will best promote the public interest that such a bid be accepted instead of the lowest responsible bid, the purchase director shall award the contract to the lowest responsible bidder. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, the purchase director may award the contract to any of such bidders. The purchase director may in his discretion, reject all bids and re advertise for new bids in the manner provided by this section.

Amended by Local Law No. 4 1982.

- b. The purchasing director may purchase supplies, materials, equipment, insurance or services to be rendered by contract without the advertisement required by paragraph a of this section in the following cases: (1) when the county executive has declared a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting the life, health or safety of inhabitants of the county of Erie require immediate action which cannot await competitive bidding; (2) when, by resolution adopted by a two thirds vote of all its members, the county legislature has determined it to be impracticable to advertise for such bids, or (3) when the county legislature is not in session, and through some accident or other unforeseen circumstances the machinery, apparatus or equipment of any of the public buildings of the county shall become disabled or any of such buildings or parts thereof shall be rendered untenable by reason of the sudden action of the elements, and the administrative head in charge of

such building shall certify in writing to the purchasing director such emergency and the necessity of immediate repair of the defect. Such certificate shall be approved by the county executive.

- c. Upon the adoption of a resolution by a vote of at least two thirds of all the members of the county legislature stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material, services, insurance or supplies in excess of the amount specified by the county legislature in accordance with paragraph a may be awarded to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption.
- d. Surplus and second hand supplies, materials or equipment may be purchased without competitive bidding from the federal government, the state of New York or any other political subdivision or district.
- e. No supplies, materials, equipment, insurance or biddable services shall be delivered except as specifically ordered by the division of purchase. No supplies, materials, equipment, insurance or biddable services shall be provided by the division to any administrative unit, office or employee except on a requisition in writing signed by an authorized person.
Amended by Local Law No. 4 1982.
- f. Where the administrative code or other provision of law specifies that a purchase or contract is to be let by the purchasing division such purchase or contract shall be ordered by the purchasing director and the director shall certify the prices at which he made the purchases. The county comptroller shall not audit any bill or invoice for supplies, materials, equipment, insurance or biddable services unless it shall fully appear that such items or services were ordered pursuant to this code or other applicable law. All requisitions received by the purchasing director shall be filed in his office and open to public inspection under reasonable regulations for their safety and preservation. The purchasing director shall make no purchases until he has first secured the certification of the county comptroller that there are unencumbered balances available for the purpose. Procedures established for the division of purchase shall be applicable only to purchases and contracts made by the division of purchase. Other purchases and contracts shall be made pursuant to procedures established by the executive department in consultation with the comptroller.
Amended by Local Law No. 4 1982.

Section 19.08 Professional, technical or other consultant services. When a professional, technical or other consultant service contract has a value in gross of ten thousand dollars (\$10,000) or more, the head of a department or administrative unit shall distribute to responsible persons able to provide the required special skill or service, (for the purposes of this section, persons, including the singular of that term, shall include individuals, firms, partnerships and corporations), a request for a proposal (RFP). The RFP shall contain all information, including any particular or unique specifications required, necessary to adequately inform the potential contractor of the special skill or service required by the county and shall afford the potential contractor an opportunity to submit a response to the RFP outlining his qualifications, expertise, experience, past experience with the county, if any, and the total estimated cost, or rate, for providing the special service or skill required. Necessary information shall include the name, title and department of any employee or officer who was a county employee or officer one year prior to the date of the potential contractor's response.

Upon receipt of responses to the RFP, a three member committee shall be formed by the department head or administrative unit head, and the members of this committee shall preliminarily review and evaluate the responses. This committee shall prepare in writing and shall submit a comparison of all the persons who responded showing (a) what special skill or service will be provided; (b) the qualifications of the person; (c) the expertise of the person and the quality of any past experience that person has had with the county; (d) the total estimated cost, or rate, for providing the special service or skill; and (e) the person shall disclose the name, title and department of any employee or officer of his who was a county employee or officer one year prior to the date of his response. The head of the department or administrative unit shall submit such evaluation with his recommendation to the Erie county legislature.

The head of the department or administrative unit shall in writing represent to the legislature that, if he uses as a pre qualified list for prospective suppliers of professional, technical or other consultant services, he has published or otherwise made known to the community at large that his department or administrative unit uses such a pre qualified list and that, if a potential contractor wishes to be considered by the county for such services, he should submit necessary information as to what type of service he provides so his name will be added to the list. If the department or administrative head does not use a pre qualified list, then he shall in writing represent to the legislature that he published or otherwise made known to the community at large on a regular basis the fact that his department from time to time requires certain professional, technical or other consultant services and, if a potential contractor is interested in providing such services to the county that he contact the head of the department or administrative unit with necessary information as to what type of service he provides.

This provision shall in no event mandate a department head or administrative unit head to recommend or the county legislature to award such contracts to the lowest bidder or any bidder. This provision, moreover, shall not prohibit the county legislature from approving a contract with a qualified minority person, as defined in the county's minority business enterprise local law, who provides a special service or skill required by the county whether or not this informal procedure has been followed.

Notwithstanding this provision, if the county legislature makes a finding of necessity that the special service or skill must be provided immediately, or, in the case of doctors, dentists or ministers, makes a determination that this procedure is impracticable, then it may by resolution waive this procedure.



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PREV

SECTION 104-A

Purchasing Of Products For Public Use

NEXT

SECTION 104-C

Disposal Of Surplus Computer Equipment

Section 104-B

Procurement policies and procedures

General Municipal (GMU)

SHARE



1. Goods and services which are not required by law to be procured by political subdivisions or any districts therein pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys in the best interests of the taxpayers of the political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the governing board of every political subdivision and any district therein, by resolution, shall adopt internal policies and procedures governing all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of section one hundred three of this article or of

any other general, special or local law. In cities with a population of one million or more, the procurement policy board shall develop and promulgate such policies and procedures by rule.

2. Such policies and procedures shall contain provisions which, among other things:

a. prescribe a procedure for determining whether a procurement of goods and services is subject to competitive bidding and documenting the basis for any determination that competitive bidding is not required by law;

b. provide that, except for procurements made pursuant to subdivision three of section one hundred three or section one hundred four of this article, section one hundred seventy-five-b of the state finance law, section one hundred eighty-six of the correction law, or the policies and procedures adopted pursuant to paragraph f of this subdivision, alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals, written quotations, verbal quotations or any other method of procurement which furthers the purposes of this section;

c. set forth when each such method of procurement will be utilized, taking into account which method will best further the purposes of this section and the cost-effectiveness of the method;

d. require adequate documentation of actions taken in connection with each such method of procurement;

e. require justification and documentation of any contract awarded to other than the lowest responsible dollar offeror, setting forth the reasons such an award furthers the purpose of this section; and

f. identify the individual or individuals responsible for purchasing and their

respective titles. Such information shall be updated biennially.

g. set forth any circumstances when, or types of procurements for which, in the sole discretion of the governing body (or in the case of cities with a population of one million or more, the procurement policy board), the solicitation of alternative proposals or quotations will not be in the best interest of the political subdivision or district therein.

3. Comments concerning the policies and procedures shall be solicited from officers of the political subdivision or district therein involved in the procurement process prior to the enactment of the policies and procedures, and from time to time thereafter.

4. The governing board shall annually review its policies and procedures. In the case of a city with a population of one million or more, the annual review shall be the duty and responsibility of the procurement policy board.

5. The unintentional failure to fully comply with the provisions of this section shall not be grounds to void action taken or give rise to a cause of action against the political subdivision or district or any officer or employee thereof.

6. Notwithstanding any other provisions of this section or any provision of law, boards of education shall have the authority to include in the internal policies and procedures governing procurement of apparel or sports equipment, where such procurement is not required to be made pursuant to the competitive bidding requirements of section one hundred three of this article, a prohibition against the purchase of apparel or sports equipment from any vendor based upon either or both of the following considerations: (a) the labor standards applicable to the manufacture of the apparel or sports equipment, including but not limited to employee compensation, working conditions, employee rights to form unions, and the use of child labor; or (b) the bidder's failure to provide information sufficient for boards of education to determine the labor standards applicable to the

manufacture of the apparel or sports equipment.

PREV

SECTION 104-A

Purchasing Of Products For Public Use

NEXT

SECTION 104-C

Disposal Of Surplus Computer Equipment

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