

Intro. Res. No. 1317-2009

Laid on Table 4/28/2009

Introduced by Presiding Officer Lindsay and Legislators Browning, Gregory, Kennedy, Montano, Romaine, Vilorio-Fisher, Losquadro, Alden

RESOLUTION NO. 676 -2009, TO IMPROVE AND STRENGTHEN THE CONSULTANT PROCUREMENT PROCESS IN SUFFOLK COUNTY

WHEREAS, NEW YORK GENERAL MUNICIPAL LAW §104-b requires the governing board of every political subdivision in the State to adopt policies and procedures for the procurement of goods and services which are not subject to typical competitive bidding requirements; and

WHEREAS, Resolution No. 349-1994, codified in Chapter 708, Article III of the SUFFOLK COUNTY CODE, established policies governing the County's procurement of consultant services; and

WHEREAS, these policies and procedures were enacted to guard against favoritism, fraud and corruption in the award of public contracts; and

WHEREAS, transparency in competitive contracting procedures ensures that taxpayer dollars are spent in the most efficient and economical manner, securing the best goods and services at the lowest prices; and

WHEREAS, section 104-b of the NEW YORK GENERAL MUNICIPAL LAW mandates that municipalities regularly review their procurement policies; and

WHEREAS, the County's current law needs to be updated and modified to achieve fairness, openness, and economy in the procurement process; and

WHEREAS, written quotes should be required for small consultant contracts; and

WHEREAS, the dollar threshold that triggers the RFP process should be raised because small contracts do not justify an extensive RFP process; and

WHEREAS, the current process for waiving RFP requirements is not sufficiently transparent; and

WHEREAS, creating checks and balances in the waiver process will ensure that the County's competitive procurement laws are not compromised; and

WHEREAS, the legislative branch of government should be represented on RFP and waiver committees; and

WHEREAS, the Department of Public Works should adhere to the same procurement requirements as all other County departments; and

WHEREAS, actions taken in connection with the procurement of consultant services should be adequately documented; and

WHEREAS, the Suffolk County Comptroller should be empowered to formulate rules and regulations to ensure that the County adheres to the highest and best practices in procuring consultant services; now, therefore be it

1st RESOLVED, that Chapter 708 of the SUFFOLK COUNTY CODE is hereby amended as follows:

CHAPTER 708, PURCHASING

* * * *

ARTICLE III, Consultant/Personal Services Procurement

§ 708-4. Procedures [involving cost] for Procuring Consultant/Personal Services.

(A) The following procurement procedures are adopted for purposes of governing the hiring and contracting of consultant services, subject to the requirements of Local Law No. 4-1993, a local law to promote local business for County consulting work:

<u>Cost</u>	<u>Procedure</u>
\$0.01 to \$1,000.00	Hiring at the discretion of the County Executive or his/her duly authorized representative
\$1,000.01 to [\$10,000.00] <u>\$25,000.00</u>	Written quotes from at least 3 sources (if available) with award made at the discretion of the County Executive [or]
[\$10,000.01 to \$20,000.00]	[Advertised requests for proposals (RFP's) with award made by the County Executive or his/her duly authorized representative; however, in the case of consultant services for public works projects, RFP's may be solicited from at least 3 prequalified firms with the award made by the County Executive or his/her duly authorized representative]
[\$20,000.01] <u>\$25,000.01</u> and up	Advertised RFP's with each separate award made by a separate committee appointed solely for the purpose of making that specific award and whose membership shall always include the County Executive or the County Executive's duly authorized representative or representatives, <u>the Presiding Officer of the Suffolk County Legislature, or the Presiding Officer's duly authorized representative and the department head of the department requesting the RFP or his/her representative or representatives;</u> [however, in the case of consultant services for public works projects, RFP's may be solicited from at least 5 prequalified firms with the award made by a

separate committee appointed solely for the purpose of making that specific award and whose membership shall always include the County Executive or the County Executive's duly authorized representative or representatives]

- (B) Each member of any committee appointed to make an RFP contract award shall file a written statement that he/she does not have a conflict of interest that would preclude him/her from serving upon the designated committee.

* * * *

§ 708-6. Exceptions.

The following circumstances may warrant exceptions to the procedures set forth herein:

* * * *

- B. Formal bid solicitations or RFP's for the hiring of certain consultant services requiring special or technical skill, training or expertise in the ~~[\$10,000.01]~~ \$25,000.00 and up range may be waived by [the] a waiver committee made up of the County Executive or his/her duly authorized representative, the Presiding Officer of the County Legislature or his or her duly authorized representative and a member appointed by the County Executive, where it would be in the best interest of the County to do so.

- (1) Such a waiver would be appropriate where the individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth; these qualifications are not necessarily found in the individual or company that submits the lowest bid or proposal, and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.
- (2) In determining whether a service fits into this category, the ~~[County Executive or his duly authorized representative]~~ waiver committee shall take into consideration the following guidelines:
 - (a) Whether the services are subject to state licensing or testing requirements.
 - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.
 - (c) Whether the services require a professional relationship between the individual and municipal officials.

[1] Professional or technical services shall include but not be limited to the following: services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; outside counsel

or consultants hired in connection with litigation or other legal work performed by or on behalf of the County; and computer software or programming services for customized programs, or services involved in substantial modification and customizing or prepackaging software.

[C]. In the \$1,000.01 to \$10,000 category, documented verbal quotes may substitute for written quotes if the County Executive finds that a particular set of circumstances exists which makes time of the essence in order to further the fiscal interests of the County.]

[D]C. Definitions. As used in this section, the following terms shall have the meanings indicated:

* * * *

[E]D. Formal bid solicitations or RFP's are hereby waived in those instances in which a not-for-profit, nonprofit or for-profit corporation, organization or provider has received designation as a line item for funding purposes in the Suffolk County Operating Budget and the funding constitutes a payment for reimbursement rates for client services set by Suffolk County and/or payment for reimbursement of rates established by contract for client services by Suffolk County, or in those instances in which a not-for-profit, nonprofit or for-profit corporation, organization or provider is selected to provide client services under block or generic funding in the Suffolk County Operating Budget and the funding constitutes a payment for reimbursement rates for client services set by Suffolk County and/or payment for reimbursement of rates established by contract for client services by Suffolk County. In these instances, instead of utilizing the RFP process, the pertinent department shall request, on maximum notice to the public, potential vendors to submit written documentation, in a formal request for qualification process, pertaining to the credentials, qualifications, expertise, experience, reliability, financial viability and background of such vendor so that the pertinent department may select the most qualified vendor to provide the client services.

[F]E. Use of procurement contracts for client services.

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[G]F. Policy; contracts for client services.

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[H]G. Multi-term contracts.

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§ 708-8. Rules and Regulations.

A. The Suffolk County Comptroller, in consultation with the Department of Public Works', Division of Purchasing, is hereby authorized and empowered to promulgate rules and regulations, consistent with the provisions of this Chapter, for the procurement of personal services/personal consultant services, which shall be applicable to all County departments, offices and agencies. The rules and regulations promulgated by the Comptroller shall be subject to legislative approval.

B. All departments, offices and agencies must file a Personal Services Procurement checklist developed by the County Comptroller, with the Comptroller's office within ten (10) days of award of a consultant contract.

[§708-8.] § 708-9. Application.

This article shall apply to the awarding and execution of contracts occurring on or after the effective date of this article.

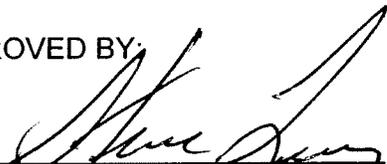
and be it further

2nd RESOLVED, that this Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

[] Brackets denote deletion of language.
___ Underlining denotes addition of new language.

DATED: August 4, 2009

APPROVED BY:



County Executive of Suffolk County

Date: AUG 17 2009

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 4, 2009 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

A handwritten signature in cursive script that reads "Tim Laube".

Clerk of the Legislature

Intro. Res. CA 1317

Res. No. 676

August 4, 2009

Motion:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:

Romaine, Schneiderman, Browning, Beedenbender, Losquadro
Eddington, Montano, Alden, Lindsay, Viloría-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Brian BEEDENBENDER					
6	Daniel P. LOSQUADRO					
7	Jack EDDINGTON					
9	Ricardo MONTANO					
10	Cameron ALDEN					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
14	Wayne R. HORSLEY					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	Jon COOPER					
5	Vivian VILORIA-FISHER, D.P.O.					
8	William J. LINDSAY, P.O.					
Totals		18				

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
Send To Committee
Table Subject To Call
Lay On The Table
Discharge
Take Out of Order
Reconsider
Waive Rule
Override Veto
Close
Recess
APPROVED <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
<input type="checkbox"/> NOT ADOPTED

Tim Laube

 Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote