

**RESOLUTION NO. 747 -2012, ADOPTING LOCAL LAW
NO. 52 -2012, A LOCAL LAW TO UPDATE AND STRENGTHEN
THE COUNTY'S RESPONSIBLE BIDDER STATUTE**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 5, 2012, a proposed local law entitled, "**A LOCAL LAW TO UPDATE AND STRENGTHEN THE COUNTY'S RESPONSIBLE BIDDER STATUTE**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 52 -2012, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO UPDATE AND STRENGTHEN THE COUNTY'S
RESPONSIBLE BIDDER STATUTE**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
SUFFOLK**, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk enters into many contracts with vendors to acquire certain goods and services.

This Legislature also finds and determines that Article II of Chapter 189 of the SUFFOLK COUNTY CODE sets forth the requirements for bidders on County contracts and disqualifies bidders who have been convicted of a number of crimes or in violation of State or local labor laws.

This Legislature further finds and determines that the County licenses a number of professions and contracts with many professionals who are subject to these laws.

This Legislature determines that bidders on County contracts who are subject to the County's licensing laws should affirm that they are in full compliance with such laws at the time their bid is submitted. Entities which are not in compliance with County licensing laws should be automatically disqualified as non-responsible bidders.

Therefore, the purpose of this law is to repeal Article II of Chapter 189 of the SUFFOLK COUNTY CODE and enact a revised version to reorganize the existing requirements and ensure that bidders subject to the County's licensed professions' laws are in full compliance with same at the time of bid submission.

Section 2. Amendments.

- I. Article II of Chapter 189 of the SUFFOLK COUNTY CODE is hereby repealed in its entirety.
- II. A new Article II of Chapter 189 of the SUFFOLK COUNTY CODE is hereby enacted to read as follows:

Chapter 189. PURCHASING AND CONTRACTS.

ARTICLE II. Disqualification of Non-responsible Bidders.

§ 189-4. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

AWARDING AGENCY – The agency authorized by law to award the bid.

CONVICTED OF – An adjudication of guilt by any court of competent jurisdiction, whether upon a verdict or plea of guilty or nolo contendere.

ENTITY – Any individual, firm, association, partnership, institution, joint venture, joint-stock association or corporation, including an officer of a corporation, a shareholder owning over 5% of the outstanding shares of a corporation or a relative within the third degree of consanguinity of an officer or a shareholder owning over 5% of the outstanding shares of a corporation, participating in the municipal bidding process in the County of Suffolk.

§ 189-5. Non-responsible bidder; Prohibited acts.

Any entity which has engaged in the following acts shall be determined by the awarding agency a non-responsible bidder and disqualified from the bidding process:

1. An entity which has been convicted of committing or attempting to commit one or more of the following crimes within the 10 years immediately prior to the date of submission of the bid:
 - a. Extortion;
 - b. Coercion;
 - c. Bribery;
 - d. Theft;
 - e. Fraud;
 - f. Any violent crime related to business, labor or commerce;
 - g. Sabotage;
 - h. Collusive bidding/bid-rigging;
 - i. Combination in restraint of trade;
 - j. Conspiracy to commit one of the crimes listed above; and/or
 - k. Criminal solicitation associated with one of the crimes listed above.
2. An entity that has been cited by the Suffolk County Department of Consumer Affairs for operating without a license and/or has had their County license revoked and continues to operate their business in violation of the County licensing laws. The term of disqualification shall continue until the entity is in compliance with all applicable County licensing laws.
3. Any entity which, in the 10 years immediately prior to the date of submission of bid, has been convicted under, or determined by the New York State Department of Labor or the Suffolk County Department of Labor to be in violation of, Chapter 31 of the Consolidated Laws of the State of New York

("Labor Law"), Chapter 575 of the SUFFOLK COUNTY CODE or any provision of state or local law protecting workers' safety. Notwithstanding the foregoing, if the awarding agency finds that an entity has violated any provision of such law, the awarding agency may give due consideration to the size of the entity's business, the good faith of the entity, the gravity of the violation, the history of previous violations and the failure to comply with record-keeping or other requirements, and such other factors the awarding agency may deem relevant.

§ 189-6. Effect of disqualification; review of such finding.

- A. Upon the determination of the awarding agency that a bidder is non-responsible, that entity shall be barred from submitting a bid on the County contract or project and disqualified from further bidding on County contracts or projects until such time as the entity is determined to be a responsible bidder.
- B. No contract or project shall be awarded to an entity determined to be a non-responsible bidder. Any contract entered into in violation of this article shall be null and void ab initio, and any entity entering into such agreement shall not be entitled to any compensation pursuant to such agreement.
- C. Any entity disqualified from the bidding process under this article may seek a review of the determination of the awarding agency by means of an Article 78 proceeding.

§ 189-7. Disclosure requirements.

- A. Any entity bidding on a County project or contract must disclose in writing to the awarding agency at the time of submission of the bid all criminal convictions rendered within the ten year period immediately preceding the bid.
- B. Prior to entering into a contract with the County of Suffolk, the successful bidder shall make a written representation to the County of Suffolk that it is in compliance with all applicable licensing laws and that it has not been convicted of any offense set forth in this article within ten years immediately preceding such representation. Such representation shall be made a part of such contract together with a representation that the person entering into the contract with the County has read and is familiar with the provisions of this article.

§ 189-8. Penalties.

Any intentional or knowing misrepresentation made by an entity in association with the disclosure requirements set forth in § 189-7 shall constitute an unclassified misdemeanor, and the person making such intentional or knowing misrepresentation shall be subject to a fine of up to \$1,000 and/or up to one year in jail and shall be barred from bidding on any future County contract. Each such violation shall constitute a separate and distinct offense.

§ 189-9. Exemption.

This article shall not apply to any entity doing business with the County of Suffolk at the request of the United States Government for national security, anti-terrorist or homeland defense reasons. In order to qualify for such an exemption, an entity shall submit to the County

written documentation of such request or command issued by an appropriate official of the United States Government.

Section 3. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

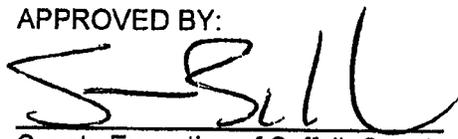
This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning 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. 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 law.

Section 6. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

DATED: August 21, 2012

APPROVED BY:


County Executive of Suffolk County

Date: 9.18.2012

After a public hearing duly held on September 5, 2012
Filed with the Secretary of State on October 1, 2012

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 21, 2012 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.

Tim Laube

Clerk of the Legislature

Intro. Res.

1607

Res. No.

747

August 21, 2012

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Thomas MURATORE					
5	Kara HAHN					
6	Sarah S. ANKER					
7	Rob CALARCO					
9	Ricardo MONTANO				/	
10	Thomas CILMI					
11	Thomas F. BARRAGA					
12	John M. KENNEDY, JR.				/	
13	Lynne C. NOWICK					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	William SPENCER					
14	Wayne R. HORSLEY, D.P.O.					
8	William J. LINDSAY, P.O.				/	
	Totals	15	—		3	—

MOTION
<input checked="" type="checkbox"/> Approve
Table: _____
<input type="checkbox"/> Send To Committee
<input type="checkbox"/> Table Subject To Call
<input type="checkbox"/> Lay On The Table
<input type="checkbox"/> Discharge
<input type="checkbox"/> Take Out of Order
<input type="checkbox"/> Reconsider
<input type="checkbox"/> Waive Rule _____
<input type="checkbox"/> Override Veto
<input type="checkbox"/> Close
<input type="checkbox"/> 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