


July 6, 2023

TO: Hon. Vedat Gashi, Chair
Hon. Nancy Barr, Vice Chair
Hon. Christopher Johnson, Majority Leader
Hon. Margaret Cunzio, Minority Leader

FROM: George Latimer
Westchester County Executive 

RE: Message Requesting Immediate Consideration: **LOCAL LAW – Amend Procurement Policy.**

This will confirm my request that the Board of Legislators allow submission of the referenced communication to be submitted to the Board of Legislators July 10, 2023 Agenda.

Transmitted herewith for your review and approval is a Local Law which, if adopted, would authorize the County of Westchester (“County”) to amend Chapter 836 (the “Purchasing Act”) of the Laws of Westchester County (“LWC”).

Therefore, since this communication is of the utmost importance, it is respectfully submitted that the County Board of Legislators accepts this submission for July 10, 2023 “blue sheet” calendar.

Thank you for your prompt attention to this matter.

Westchester County

George Latimer
County Executive

July 5, 2023

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a Local Law which, if adopted, would authorize the County of Westchester ("County") to amend Chapter 836 (the "Purchasing Act") of the Laws of Westchester County ("LWC") to, *inter alia*, make changes to various monetary thresholds as they do not reflect present market conditions and have not been adjusted for many years, allow the County to make a gift of any surplus, obsolete or unused vehicles, equipment and/or furniture to a municipality, add sole source provisions consistent with case law, allow the County to become certified as a Green Purchasing Community by requiring use of the GreenNY purchasing specifications used by New York State, and to use the best value alternative to public bidding for purchase contracts pursuant to General Municipal Law §103(1) by adding the rules and procedures utilizing the best value alternative to the Purchasing Act.

Also transmitted herewith for your review and approval is an Act, which, if adopted, would amend the policies and procedures that govern the County's procurement of goods and services that are not required by state law to be made pursuant to competitive bidding requirements (the "Procurement Policy"), in order to make changes to various monetary thresholds as they do not reflect present market conditions, generally make corrections, revise and update the Procurement Policy and also to add a provision allowing the County to become certified as a Green Purchasing Community by requiring use of the GreenNY purchasing specifications used by New York State.

With respect to the best value alternative, I have been advised that General Municipal Law §103(1) requires the County to adopt a local law authorizing the use of best value, thus it is appropriate to include rules and procedures utilizing the best value alternative to the Purchasing Act. Further, General Municipal Law §103 provides the County greater flexibility in awarding contracts by authorizing the award of purchase contracts, (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract

Office of the County Executive

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148 Martine Avenue
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pursuant to Article 8 of the Labor Law), on the basis of best value as defined in State Finance Law §163(1)(j).

I have been further advised that the increased complexity of the goods and services that the County obtains by purchase contracts can at times make it critical to consider selection and evaluation criteria which measure factors other than cost in the strictest sense. Best value procurement allows the consideration of non-price considerations such as performance requirements, including, but not limited to: product reliability, efficiency of operation, useful lifespan, and timely performance. In addition, the County is permitted by General Municipal Law §103(16) to “piggyback” on certain government contracts. However, the County cannot use any contracts procured using a best value procurement, until the County authorizes the use of the best value alternative.

The Planning Department has advised that, based on its review, the above referenced legislation may be classified as a “Type II” action under the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations, 6 NYCRR Part 617. Therefore, no environmental review is required. As you know, your Honorable Board may use such expert advice to reach its own conclusion.

I have been advised that the attached Local Law is subject to a permissive referendum, pursuant to Section 209.171(2) of the Laws of Westchester County, because it changes a provision of law relating to public bidding, purchases or contracts. Consequently, pursuant to Section 209.181 of the Laws of Westchester County, the attached Local Law, if adopted, may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the statutorily required number of qualified electors.

Based upon the foregoing, I believe the proposed legislation is in the best interest of the County and, therefore, recommend your favorable action on it.

Sincerely,



George Latimer
County Executive

GL/TSA
Attachments

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER, NEW YORK**

Your Committee is in receipt of a communication from the County Executive recommending the approval of a Local Law which, if adopted, would authorize the County of Westchester ("County") to amend Chapter 836 (the "Purchasing Act") of the Laws of Westchester County ("LWC") to, *inter alia*, make changes to various monetary thresholds as they do not reflect present market conditions and have not been adjusted for many years, allow the County to make a gift of any surplus, obsolete or unused vehicles, equipment and/or furniture to a municipality, add sole source provisions consistent with case law, allow the County to become certified as a Green Purchasing Community by requiring use of the GreenNY purchasing specifications used by New York State, and to use the best value alternative to public bidding for purchase contracts pursuant to General Municipal Law §103(1) by adding the rules and procedures utilizing the best value alternative to the Purchasing Act.

Also transmitted herewith for your review and approval is an Act, which, if adopted, would amend the policies and procedures that govern the County's procurement of goods and services that are not required by state law to be made pursuant to competitive bidding requirements (the "Procurement Policy"), in order to make changes to various monetary thresholds as they do not reflect present market conditions, generally make corrections, revise and update the Procurement Policy and also to add a provision allowing the County to become certified as a Green Purchasing Community by requiring use of the GreenNY purchasing specifications used by New York State.

With respect to the best value alternative, your Committee has been advised that General Municipal Law §103(1) requires the County to adopt a local law authorizing the use of best

value, thus it is appropriate to include rules and procedures utilizing the best value alternative to the Purchasing Act. Further, General Municipal Law §103 provides the County greater flexibility in awarding contracts by authorizing the award of purchase contracts, (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law), on the basis of best value as defined in State Finance Law §163(1)(j).

Your Committee has been further advised that the increased complexity of the goods and services that the County obtains by purchase contracts can at times make it critical to consider selection and evaluation criteria which measure factors other than cost in the strictest sense. Best value procurement allows the consideration of non-price considerations like performance requirements, including, but not limited to, product reliability, efficiency of operation, useful lifespan, and timely performance. In addition, the County is permitted by General Municipal Law §103(16) to “piggyback” on certain government contracts. However, the County cannot use any contracts procured using a best value procurement, until the County itself authorizes the use of the best value alternative.

The Planning Department has advised that, based on its review, the above referenced legislation may be classified as a “Type II” action under the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations, 6 NYCRR Part 617. Therefore, no environmental review is required. Your Committee concurs with this recommendation.

Your Committee has been advised that that the attached Local Law is subject to a permissive referendum, pursuant to Section 209.171(2) of the Laws of Westchester County, because it changes a provision of law relating to public bidding, purchases or contracts.

Consequently, pursuant to Section 209.181 of the Laws of Westchester County, the attached Local Law, if adopted, may not take effect until sixty (60) days after its adoption, assuming that within that time a petition protesting its adoption is not filed by the statutorily required number of qualified electors.

It should be noted that a vote of not less than a majority of the voting strength of your Honorable Board is required to adopt the Local Law and Act.

Your Committee has carefully considered the proposed legislation and recommends that your Honorable Board adopt the attached legislation.

Dated: _____, 2023
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

SUBJECT: Chapter 836 Amendment

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount _____

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount _____

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

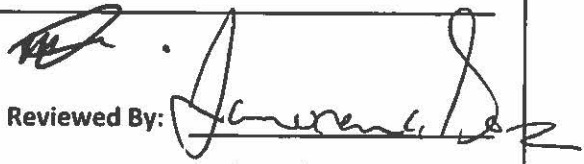
Next Four Years: _____

Prepared by: Michael Dunn

Title: Senior Budget Analyst

Department: Budget

Date: July 5, 2023


Reviewed By: _____
Budget Director

Date: 7/5/23

TO: Tami Altschiller
Assistant Chief Deputy County Attorney

FROM: David S. Kvinge, AICP, RLA, CFM
Assistant Commissioner



DATE: July 5, 2023

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR AMENDMENT OF
PURCHASING ACT AND PROCUREMENT POLICY**

PROJECT/ACTION: Adoption of a Local Law that will authorize the County to use the best value alternative to public bidding for purchase contracts pursuant to General Municipal Law §103(1) and amend Chapter 836 (known as the Purchasing Act) of the Laws of Westchester County to update and incorporate current pricing and procedures. The amendment will: add rules and procedures to allow the County to conduct a best value alternative to public bidding for purchase contracts; adjust monetary thresholds to reflect present market conditions; permit the County to make a gift of any surplus, obsolete or unused vehicles, equipment and/or furniture to a municipality; add sole source provisions consistent with case law; and require GreenNY procurement specifications used by New York State to be followed, which will allow the County to become certified as a Green Purchasing Community. In addition, an Act is proposed to amend the policies and procedures that govern the County's procurement of goods and services that are not required by state law to be made pursuant to competitive bidding requirements (known as the Procurement Policy) in order to adjust monetary thresholds to reflect present market conditions, make general revisions, updates and corrections, and add the provision requiring GreenNY procurement specifications to be followed where applicable.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTIONS:**
- **617.5(c)(26):** routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
 - **617.5(c)(31):** purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials.

COMMENTS: None

DSK/cnm

cc: Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Blanca P. Lopez, Acting Commissioner
Claudia Maxwell, Associate Environmental Planner

RESOLUTION NO. -2023

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. - 2023, entitled “ A LOCAL LAW amending Chapter 836 of the Laws of Westchester County to, *inter alia*, make changes to various monetary thresholds, allow the County to make a gift of any surplus, obsolete or unused vehicles, equipment and/or furniture to a municipality, add sole source provisions, allow the County to become certified as a Green Purchasing Community by requiring use of the GreenNY purchasing specifications used by New York State, and to use the best value alternative to public bidding for purchase contracts pursuant to General Municipal Law §103(1) by adding the rules and procedures utilizing the best value alternative to the Purchasing Act.” The public hearing will be held at _____ p.m. on the _____ day of _____, 2023 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing, and the method for submitting comments, to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.