

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1992**

**No. 44**

Introduced by Council Members Maloney and Michels; also Council Members Alter, Foster, Freed, Leffler, McCaffrey, Cerullo III, Malave-Dilan, White, Millard, Warden, DiBrienza, Eldridge, Watkins, Linares, Fisher, Powell IV, Marshall and Fusco.

**A LOCAL LAW**

**To amend the Administrative Code of the City of New York in relation to reports of the comptroller on contracts.**

*Be it enacted by the Council as follows:*

Section 1. Legislative intent. In 1987, the council enacted Local Law 52 to require the mayor and the comptroller to jointly establish a computerized data base containing information about contracts, franchises and concessions entered into by mayoral and non-mayoral agencies. Local Laws 5 and 13 of 1991 created the complement to this data base and require the mayor and the comptroller to be jointly responsible for the maintenance of a computerized data system that contains information about people and companies with whom the city does business. These legislative initiatives were pressed because of the council's concern that contracts go only to honest and capable vendors and that the city obtain the highest quality and quantity of goods and services for the approximately six billion dollars in city funds that are spent each year through procurement. Much of this money consists of funds allocated in the New York city budget to public benefit corporations and similar entities, such as the Health and Hospitals Corporation and the Economic Development Corporation.

It is the intent of this legislation to make clear that public benefit corporations and similar entities that receive city funds are responsible for reporting contractual expenditures to the taxpayers who supply those funds.

§ 2. Subdivision a of section 6-116.2 of the administrative code of the city of New York is amended to read as follows:

a. The comptroller and the mayor shall jointly maintain, at the financial information services agency, a computerized data base. Such data base shall contain information for every franchise and concession and every contract for goods or services involving the expenditure of more than ten thousand dollars or in the case of construction, repair, rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, entered into by [a mayoral or non-mayoral] *an agency, new york city affiliated agency, elected official or the council*, including, but not limited to:

(1) the name, address, and federal taxpayer's identification number of the contractor, franchisee or concessionaire where available in accordance with applicable law;

(2) the dollar amount of each contract including original maximum and revised maximum expenditure authorized, current encumbrance and actual expenditures;

- (3) the type of goods or services to be provided pursuant to the contract;
- (4) the term of the contract, or in the case of a construction contract the starting and scheduled completion date of the contract and the date [of] final payment is authorized;
- (5) the agency, *new york city affiliated agency, elected official or the council* that awarded the contract, franchise or concession and the contract registration number, *if any*, assigned by the comptroller;
- (6) the manner in which the contractor, franchisee or concessionaire was selected, including, but not limited to, in the case of a contractor, whether the contractor was selected through public letting and if so, whether the contractor was the lowest responsible bidder; whether the contractor was selected through a request for proposal procedure, and if so, whether the contractor's response to the request offered the lowest price option; whether the contractor was selected without competition or as a sole source; whether the contractor was selected through the emergency procedure established in the charter or the general municipal law, *where applicable*; or whether the contractor was selected from a list of prequalified bidders, and if applicable, whether the contractor was the lowest responsible bidder; *and*
- (7) [the reason or reasons why the award of the contract was stated to be appropriate pursuant to subdivision e of section three-forty-nine of the Charter; and
- (8) the date, resolution number and calendar number of the action taken with respect to a contract or franchise by the board of estimate and]the date *of any public hearing held with respect to the contract and the date* and agenda number of action taken with respect to a concession or franchise by the [concessions] *franchise and concession* review committee.

§ 3. Paragraph i of subdivision b of section 6-116.2 of such code is amended to read as follows:

b. (i) The mayor and comptroller shall be responsible for the maintenance of a computerized data system which shall contain information for every contract, in the following manner: the mayor shall be responsible for operation of the system; the mayor and the comptroller shall be jointly responsible for all policy decisions relating to the system. In addition, the mayor and the comptroller shall jointly review the operation of the system to ensure that the information required by this subdivision is maintained in a form that will enable each of them, and agencies, *new york city affiliated agencies*, [other] elected officials and the council, to utilize the information in the performance of their duties. This system shall have access to information stored on other computerized data systems maintained by agencies, which information shall collectively include, but not be limited to:

§ 4. Subdivision b of section 6-116.2 of such code is amended by adding a new paragraph vii to read as follows:

(vii) *This subdivision shall not apply to any new york city affiliated agency, except that such new york city affiliated agency shall report cautionary information and the name and telephone number of the employee responsible for responding to inquiries concerning such information.*

§ 5. Subdivisions c, d, e, f and h of section 6-116.2 of such code are amended to read as follows:

c. The information maintained pursuant to subdivision b shall be made accessible to the computerized data system established pursuant to subdivision a of this section in a form or format agreed upon by the mayor and the comptroller. The information contained in these computerized data systems shall be made available to any other data retrieval system maintained by an agency, *new york city affiliated agency*, elected [officials] *official* or the council for the purpose of providing information regarding contracts, franchises and concessions awarded and the contractors, franchisees and concessionaires to which they were awarded.

The information concerning the past performance of contractors that is contained in a computerized data base maintained pursuant to section 6-116.1 of this code for such purposes shall be made available to these data systems.

d. All of the information as required by subdivisions a and b contained in these computerized data bases shall be made available on-line in read-only form to personnel from any agency[,], or *new york city affiliated agency*, elected officials, members of the council and council staff, and shall be made available to members of the public, in accordance with sections three hundred thirty four and one thousand sixty four of the charter and article six of the public officers law.

e. No contract for goods or services involving the expenditure of more than ten thousand dollars or in the case of construction, repair, rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, franchise or concession shall be let *by an agency, elected official or the council*, unless the contract manager or other person responsible for making the recommendation for award has certified that these computerized data bases and the information maintained pursuant to section 6-116.1 of this code have been examined. This shall be in addition to any certifications required by chapter thirteen of the charter, the rules of the procurement policy board, where applicable, or any rules of the council relating to procurement.

f. Not later than January thirtieth following the close of each fiscal year, the comptroller shall publish a summary report setting forth information derived from the data base maintained pursuant to subdivision a of this section and the following information for each franchise, concession or contract for goods or services having a value of more than ten thousand dollars or in the case of construction, having a value of more than fifteen thousand dollars, including, but not limited to:

- (1) the types and dollar amount of each contract, franchise or concession entered into during the previous fiscal year;
- (2) the registration number assigned by the comptroller, *if any*;
- (3) the agency, *new york city affiliated agency*, elected official or [other entity] the council entering into the contract, franchise or concession;
- (4) the vendor entering into the contract, franchise or concession and the subcontractors engaged pursuant to each contract;
- (5) the reason or reasons why the award of each such contract was deemed appropriate pursuant to subdivision a of section 312 of the charter, *where applicable*; and
- (6) the manner in which the contractor, franchisee or concessionaire was selected, including, but not limited to, in the case of a contractor, whether the contractor was selected through public letting and if so, whether the contractor was the lowest responsible bidder; whether the contractor was selected through a request for proposal procedure and if so, whether the contractor's response to the request offered the lowest price option; whether the contractor was selected without competition or as a sole source; whether the contractor was selected through the emergency procedure established in the charter or the general municipal law, *where applicable*; or whether the contractor was selected from a list of prequalified bidders, and if applicable, whether the contractor was the lowest responsible bidder. For franchises, this information shall also include whether the authorizing resolution of the council was complied with.

h. [any] Any contractor or subcontractor that has submitted to any agency, elected official or the council, the information required to be provided in accordance with subdivision b of this section shall be required to update that information only at three-year intervals, except that information required by paragraphs 6, 11, 12, 14, 15, 19, 20 and 21 of subdivision

b shall be updated at each time the contractor or subcontractor is considered for the award of another contract or subcontract, and except as provided in paragraph iv or v of subdivision b, no contract or subcontract shall be awarded unless the contractor or subcontractor has certified that information previously submitted as to those requirements is correct as of the time of the award of the contract or subcontract.

§ 6. Subdivision i of section 6-116.2 of such code is amended by adding new paragraphs 3 and 6, renumbering existing paragraphs as appropriate, making other technical corrections, and amending paragraph 4, to read as follows:

i. Except as otherwise provided, for the purposes of subdivision b of this section,

(1) ["agency" shall mean a department, division, bureau, office, position, administration, corporation, or any other entity the majority of the members of whose board are city officials or are appointed directly or indirectly by city officials;

(2)] "affiliate" shall mean an entity in which the parent of the contractor owns more than fifty percent of the voting stock, or an entity in which a group of principal owners which owns more than fifty percent of the contractor also owns more than fifty per cent of the voting stock;

(2) "*cautionary information*" shall mean, in regard to a contractor, any adverse action by any new york city affiliated agency, including but not limited to poor performance evaluation, default, non-responsibility determination, debarment, suspension, withdrawal of prequalified status, or denial of prequalified status;

(3) "contract" shall mean and include any agreement between an agency, new york city affiliated agency, elected official or the council and a contractor, or any agreement between such a contractor and a subcontractor, which (a) is for the provision of goods, services or construction and has a value that when aggregated with the values of all other such agreements with the same contractor or subcontractor and any franchises or concessions awarded to such contractor or subcontractor during the immediately preceding twelve-month period is valued at one hundred thousand dollars or more; or (b) is for the provision of goods, services or construction, is awarded to a sole source and is valued at ten thousand dollars or more; or (c) is a concession and has a value that when aggregated with the value of all other contracts held by the same concessionaire is valued at one hundred thousand dollars or more; or (d) is a franchise. However, the amount provided for in clause a herein may be varied by rule of the procurement policy board, where applicable, or rule of the council relating to procurement, or, for franchises and concessions, rule of the franchise and concession review committee, as that amount applies to the information required by paragraphs 7, 8, 9 and 12 of subdivision b of this section, and the procurement policy board, where applicable, or the council, or, for franchises and concessions, the franchise and concession review committee, may by rule define specifically identified and limited circumstances in which contractors may be exempt from the requirement to submit information otherwise required by subdivision b of this section, but the rulemaking procedure required by chapter forty-five of the charter may not be initiated for such rule of the procurement policy board or franchise and concession review committee less than forty-five days after the submission by the procurement policy board or, for franchises and concessions, the franchise and concession review committee, to the council of a report stating the intention to promulgate such rule, the proposed text of such rule and the reasons therefor[:];

(4) "contractor" shall mean and include all individuals, sole proprietorships, partnerships, joint ventures or corporations who enter into a contract, as defined in paragraph three herein, with an agency, new york city affiliated agency, [an] elected official or the council;

(5) "officer" shall mean any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the contractor, by whatever titles known;

(6) "new york city affiliated agency" shall mean any entity the expenses of which are paid in whole or in part from the city treasury and the majority of the members of whose board are city officials or are appointed directly or indirectly by city officials, but shall not include any entity established under the new york city charter, this code or by executive order, any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility;

(7) "parent" shall mean an individual, partnership, joint venture or corporation which owns more than fifty percent of the voting stock of a contractor;

[(7)] (8) "principal owner" shall mean an individual, partnership, joint venture or corporation which holds a ten percent or greater ownership interest in a contractor or subcontractor; [and]

[(8)] (9) "subcontract" shall mean any contract, as defined in paragraph three herein, between a subcontractor and a contractor; and

[(9)] (10) "subcontractor" shall mean an individual, sole proprietorship, partnership, joint venture or corporation which is engaged by a contractor pursuant to a contract, as defined in paragraph three herein.

§ 7. Section 6-116.2 of such code is amended by adding new subdivisions j and k, to read as follows:

j. *Notwithstanding any other provision of this section, the information required to be submitted by new york city affiliated agencies pursuant to this section shall be submitted in a form or format and on a schedule to be determined by the mayor and the comptroller. In no event shall new york city affiliated agencies be required to submit such information prior to the award of any contract.*

k. *Notwithstanding any other provision of this section, the information required to be submitted by new york city affiliated agencies pursuant to this section shall be required only as to contracts funded in whole or in part with city funds, although nothing shall preclude new york city affiliated agencies from submitting information on contracts funded by other than city funds.*

§ 8. This local law shall take effect ninety days after its enactment.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 18, 1992, and approved by the Mayor on July 7, 1992.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 44 of 1992, Council Int. 121-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on June 18, 1992: 46 for, 0 against.

Was approved by the Mayor on July 7, 1992.

Was returned to the City Clerk on July 7, 1992.

LEONARD KOENER, on behalf of  
JEFFREY D. FRIEDLANDER, Acting Corporation Counsel