



Legislation Text

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By Council Members Jackson, Barron, Clarke, Comrie, Gennaro, Jennings, Koppell, Lopez, Martinez, Perkins, Quinn, Sanders, Yassky and Gerson

A Local Law to amend the New York city charter in relation to procurement.

Be it enacted by the Council as follows:

Section 1. Section 311 of the New York city charter is amended to read as follows:

§ 311. Procurement Policy Board. a. There shall be a procurement policy board consisting of five members, three of whom shall be appointed by the mayor and two of whom shall be appointed by the comptroller. Each member shall serve at the pleasure of the appointing official. Members shall have demonstrated sufficient business or professional experience to discharge the functions of the board. At least one member appointed by the mayor and one member appointed by the comptroller shall not hold any other public office or public employment. The remaining members shall not be prohibited from holding any other public office or employment provided that no member may have substantial authority for the procurement of goods, services or construction pursuant to this chapter. The mayor shall designate the chair.

b. The board shall promulgate rules as required by this chapter, including rules establishing:

1. the methods for soliciting bids or proposals and awarding contracts, consistent with the provisions of this chapter;
2. the manner in which agencies shall administer contracts and oversee the performance of contracts and contractors;
3. standards and procedures to be used in determining whether bidders are responsible;

4. the circumstances under which procurement may be used for the provision of technical, consultant or personal services, which shall include, but not be limited to, circumstances where the use of procurement is (a) desirable to develop, maintain or strengthen the relationships between non-profit and charitable organizations and the communities where services are to be provided, (b) cost-effective, or (c) necessary to (i) obtain special expertise, (ii) obtain personnel or expertise not available in the agency, (iii) to provide a service not needed on a long-term basis, (iv) accomplish work within a limited amount of time, or (v) avoid a conflict of interest;

5. the form and content of the files which agencies are required to maintain pursuant to section three hundred thirty-four and such other contract records as the board deems necessary and appropriate;

6. the time schedules within which city officials shall be required to take the actions required by this chapter, sections thirteen hundred four and thirteen hundred five, or by any rule issued pursuant thereto, in order for contracts to be entered into, registered or otherwise approved, and [recommended] time schedules within which city officials should take action pursuant to any other provision of law or rule regarding individual contracts, which rules shall specify the appropriate remedies, including monetary remedies, for failure to meet the terms of any applicable schedule for taking such actions. The board may set forth exceptions to these rules. The promulgation of rules defining time schedules for actions by the division of economic and financial opportunity of the department of small business services and the division of labor services of such department shall require the approval of each division, as such rules pertain to actions required of such divisions, prior to the adoption of such rules by the procurement policy board;

7. procedures for the fair and equitable resolution of contract disputes; and

8. such other rules as are required by this chapter.

c. The board may promulgate such additional rules, policies and procedures consistent with and as may be necessary to implement the provisions of this chapter. The board shall annually review all of its rules, policies and procedures and make such revisions as the board deems necessary and desirable. Nothing herein shall prevent the board from reviewing its rules, policies and procedures, and making such revisions as the

board deems necessary and desirable, more than once per year.

d. The board shall promulgate rules to facilitate the timely and efficient procurement of client services, and to ensure that such contracts are administered in the best interests of the city. Such rules shall include but not be limited to: (i) rules governing city agency requirements for annual financial audits of vendors, including rules providing for consolidated audits across multiple contracts held by vendors with one or multiple agencies; (ii) rules providing for expedited renewal or extension of existing client services contracts pursuant to a determination by an agency head, where necessary and appropriate to ensure that the providers of such services may continue to receive payment pending the registration of new contracts; (iii) rules mandating the promulgation of draft and final contract plans by all agencies procuring client services, which draft and final plans shall follow, respectively, the executive budget submission and budget adoption. The board may set forth exceptions to these rules.

e. The board shall promulgate rules setting forth professional standards and a certification process for agency contracting officers, taking into account the volume and complexity of individual agency contracting activities. The board may set forth exceptions to these rules.

[d] f. In the promulgation of any rules pertaining to the procurement of construction or construction related services, the board shall consult with any office designated by the mayor to provide overall coordination to the city's capital construction activities.

[e] g. The board shall make such recommendations as it deems necessary and proper to the mayor and the council regarding the organization, personnel structure and management of the agency procurement function including, where appropriate, recommendations for revision of this charter or local laws affecting procurement by the city. Such reports may include recommendations regarding agency use of advisory groups to assist in preparation of bids or proposals and selection of contractors. The board shall also review the form and content of city contract documents and shall submit to the law department recommendations for standardization and simplification of contract language.

[f] h. The board shall not exercise authority with respect to the award or administration of any particular contract, or with respect to any dispute, claim or litigation pertaining thereto.

§ 2. Section 332 of the New York city charter is amended to read as follows:

§ 332. Payments procedure. The procurement policy board shall promulgate rules for the expeditious processing of payment vouchers by city agencies and departments including (i) the maximum amount of time allowed for the processing and payment of such vouchers from the later of (a) the date such vouchers are received by the agency, or (b) the date on which the goods, services or construction to which the voucher relates have been received and accepted by the agency, (ii) a program for the payment of interest, at a uniform rate, to vendors on vouchers not paid within the maximum amount of time pursuant to clause i of this subdivision, (iii) a process for the allocation and charging of any such interest payments to the budget of the agency responsible for the delay leading to the interest payments and (iv) agency reporting on the promptness of such payments in such form and containing such information as the board shall prescribe. The board shall coordinate and publish such prompt payment reports.

§ 3. This local law shall take effect 45 days after its enactment.