

A LOCAL LAW TO BE SUBMITTED BY
LEGISLATORS BURKE, SAVAGE & MILLER-WILLIAMS

COUNTY OF ERIE

LOCAL LAW INTRO NO. ____ -2014

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A Local Law creating general provisions in the Erie County Code related to contracts and purchasing.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section 1: LEGISLATIVE INTENT

Government often turns to the private sector to provide services faster, better, and more cheaply than it could provide through public employment. However, these services sometimes fail to live up to promises and are able to dodge taxpayer oversight.

All efforts must be made to ensure that real oversight of government work done by private entities is maintained at high standards. In order to provide that oversight, it is necessary to require contractors to adhere to principles of Transparency, Accountability, and Competition.

Section 2: SHORT TITLE

This local law shall be known as **Contractor Accountability Initiative of 2014**

Section 3: AMENDMENT TO ERIE COUNTY CODE, ARTICLE 19

Erie County Code, Article 19 General Provisions is hereby amended, adding:

Section 19.10 Contractor Transparency Requirement. Each service contract in excess of \$10,000 between Erie County and a person or company for the performance of a governmental function shall (1) provide that Erie County is entitled to receive a copy of records and files related to the performance of the governmental function, and (2) indicate that such records and files are subject to New York State Freedom of Information Law and may be disclosed by Erie County pursuant to the Freedom of Information Act. Specifically, any contractor doing business with Erie County, subordinate department or administrative unit shall: (a) keep and maintain the public records that ordinarily and necessarily would be kept and maintained by Erie County in order to perform the service or activity; (b) provide Erie County with access to such public records on the same terms and conditions that Erie County would provide the records and at a cost that does not exceed costs and defined in New York State Freedom of Information Law or as otherwise provided by law.

Section 19.11 Contractor Accountability Requirement. (1) Any service contract

shall include specific performance criteria and cost parameters to judge contractor performance, and the contractor shall submit quarterly reports to the head of the department or administrative unit contracting for services on the contractor's compliance with the performance criteria and actual costs incurred. The service contract may be canceled if the contractor fails to comply with the performance criteria and other requirements set out in the contract and if annual costs exceed those established by the contract. The contract may be cancelled at any time if the contractor fails to comply with all applicable local, state and federal laws, regulations and statutes.

Section 19.12 Contractor Competition Requirement. (1) No contract in excess of \$10,000 shall be renewed without utilizing the competitive bidding process, unless that contract specifically has an automatic renewal clause. Any in-house bids submitted shall be considered. If an in-house bid or proposal meets the cost and performance criteria specified in the law or the Request for Proposal (RFP), it shall be deemed the most qualified bid. (2) Erie County, subordinate departments and administrative units may not enter into a contract that guarantees payment for service not provided. Service or asset contracts shall not unduly restrict Erie County from taking actions in the public interest and shall not unfairly place the burden of risk on taxpayers.

Section 4: SEVERABILITY

If any clause, sentence, paragraph, subdivision, section or part of this Local 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 of 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 Local Law or its application to the person, individual, corporation, firm, partnership, entity, or circumstances directly involved in the controversy in which such judgment or order shall be rendered.

Section 5: APPLICABILITY

This Local Law shall apply to all contracts advertised for bids on or after the effective date.

Section 6: EFFECTIVE DATE

This Local Law shall take effect 30 days after the filing with the Secretary of State.