

LOCAL LAW TO BE ENACTED BY  
THE ERIE COUNTY LEGISLATURE  
IN THE  
COUNTY OF ERIE  
LOCAL LAW INTRO. – NO. 20-1 - 2017  
LOCAL LAW – NO. \_\_\_\_\_ - 2017

**A LOCAL LAW requiring that all County contracts include provisions that ensure goods and materials purchased or used shall be manufactured in New York.**

**SECTION 1. Legislative Intent**

Erie County administers a \$1.7 billion budget annually, which includes funding from the State and Federal governments, sales tax collections, and the annual property tax levy. From these revenue sources the county spends hundreds of millions of dollars on discretionary projects and even more on spending needs mandated by New York State.

It is the intent of this honorable body to show support for American manufacturers and workers by implementing purchasing preferences geared towards spending county dollars at American based companies. We, as one of the largest employers and service providers in Western New York have an obligation to act in the best interests of the residents of Erie County. To that end, it is the finding of this body that directing funding, whenever possible, to Erie County, New York State, and United States based employers is beneficial to the residents in our community.

In order to remain in compliance with New York State procurement laws the geographic scope of this law shall be limited to the State of New York specifications when this law governs contracts that would otherwise fall under New York State procurement law.

It is also the intent of this body to limit this local law's impact in situations that compliance would not be within the best interests of the residents of Erie County. Those situations should include, but not be limited to, times where the inclusion of a Made in New York clause is in opposition to state law, causes an undue burden that excessively raises the costs for the county to do business, or introduces a health and safety risk to the people of Erie County receiving health or human services benefits. Further, it is the intent of this body to encourage the continued operation of non-profit entities whose purpose is dedicated to effectuating change within Erie County. As a result, it is the intent of this body to exempt non-profit and public health and safety organizations from enforcement under this law.

## **SECTION 2. Definitions**

- 1) “County Office” – A county office is any department answerable to the County Executive or other countywide elected official;
- 2) “Goods and Materials”- For the purposes of this law goods and materials shall be defined to include any inherently useful and relatively scarce tangible item produced from agricultural, construction, manufacturing, or mining activities.
- 3) “Non-Qualifying Contract” – Any purchasing contract, not exempt under Section 4 of this Law, that is subject to competitive bidding thresholds pursuant to General Municipal Law §103;
- 4) “Not-for-profit entities” – For the purposes of this law not-for-profit means any non-government agency or organization that has 501(c)(3) status according to the Internal Revenue Service;
- 5) “Health or Human Services Contract” – For the purposes of this law health or human services contracts shall be defined to include any entity explicitly named as such in the annually approved Budget Resolutions;
- 6) “Qualifying Contracts” – Any contract, not exempt under Section 4 of this Law, over \$5,000 not otherwise subject to General Municipal Law §103 competitive bidding thresholds.

## **SECTION 3. Implementation of the Made in New York**

All Qualifying Contracts entered into by the County Executive or any other County Office or department that include the purchase or use of goods or materials shall contain a provision that requires the purchase of all goods and materials to be sourced from companies based in the United States.

Whenever possible, practical, and feasible and consistent with open competitive bidding or competitive offering, in developing specifications for the solicitation of Non-Qualifying Contracts that include the purchase or use of goods or materials, the County Office or department shall include in the specifications for the solicitation, stock item specifications of manufacturers, producers and/or assemblers located in New York State and require that bidders purchase or use goods or materials based off of the stock items of manufacturers, producers and/or assemblers located in New York State in the completion of the contract for the purpose of helping to retain jobs, business and industry presently in the State of New York and attracting expanded and new business and industry to the State of New York so as to best promote the public interest.

For the purposes of this law a company shall be considered “based in the United States” if the mailing address for the company’s global headquarters is physically located within the United

States. If the company that is a party to a contract with the County is a wholly or partially owned subsidiary of another company said parent company must be based in the United States or ownership of a majority of the shares of the parent company must be held by entities based in the United States.

#### **SECTION 4. Exemptions**

In the event it is determined that it is impossible or not within the best interests of the residents to include a buy New York clause, administrative memos presented to the Erie County Legislature shall include the reason(s) a buy New York clause cannot be effectuated.

The following contracts shall be considered exempt from the provisions of this law:

- 1) Contracts entered in to which are Health or Human Services Contracts;
- 2) Contracts entered into by any County Office with not-for-profit entities;
- 3) Contracts entered into that provide for a public safety need

#### **SECTION 5. Compliance with New York State Laws**

Implementation of this law shall be conducted in keeping with open competitive bidding or competitive offering laws of New York State and nothing in this law shall be construed so as to override settled State laws.

#### **SECTION 6. Effective Date**

This local law shall take effect on the first day of January, in the year immediately following filing with the Secretary of State.

#### **SECTION 7. 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 in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**Sponsor:** Legislator Ted B. Morton