

New York City Procurement Policy Board Public Hearing
July 19, 2018

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PROCUREMENT POLICY BOARD
PUBLIC HEARING

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July 19, 2018
9:09 a.m.

22 Reade Street
Spector Hall
New York, New York

Julia M. Speros
Court Reporter

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A P P E A R A N C E S :

Lisa Flores, Member
Comptroller's Office

Stephanie Ruiz, Clerk

TESTIMONY GIVEN BY THE FOLLOWING INDIVIDUALS :

Bill Murray
Director of New York City Government Affairs
ACEC New York

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PROCEEDINGS

THE CLERK: Good morning. This public hearing concerning proposed rules by the Procurement Policy Board will now come to order.

The hearing today will provide the public an opportunity to comment on the three proposed amendments to Chapters 1, 2, and 3 of Title 9 of the Rules of the City of New York, entitled the "The Procurement Policy Board Rules".

The Procurement Policy Board wants to be sure that anyone who wishes to be heard has an opportunity to do so. All persons who wish to speak must fill out a request slip, which I will be handing out. Each speaker will be allotted approximately three minutes.

When you testify, please first state your name and affiliation. You may also submit written testimony to me, which will be made part of the record. Any written submissions must be given to me before the close of the public hearing.

Item Number 1: The PPB has proposed

1 to amend Chapter 1 of Title 9 of the
2 Rules of the City of New York in order
3 to harmonize the definitions of "VENDEX"
4 and "PASSPort," and to amend Chapter 2
5 of Title 9 of the Rules of the City of
6 New York to require PASSPort enrollment
7 for vendors with contracts and
8 subcontracts, the value of which, when
9 aggregated with the values of all other
10 contracts, subcontracts, franchises or
11 concessions awarded to the vendor during
12 the immediately preceding twelve-month
13 period, is greater than or equal to
14 \$250,000.

15 Does anyone wish to testify?

16 (No response.)

17 THE CLERK: Moving onto the next
18 item.

19 Item Number 2: The PPB has proposed
20 to amend Chapter 2 of Title 9 of the
21 Rules of the City of New York to change
22 the current policy that requires City
23 agencies to submit a hard copy of a
24 contract's ink (i.e. "wet") signature
25 page as part of their registration

1 packages.

2 Does anyone wish to testify?

3 (No response.)

4 THE CLERK: If no one wishes to
5 testify, onto the next item.

6 Item Number 3: The PPB has proposed
7 to amend Chapter 3 of Title 9 of the
8 Rules of the City of New York to expand
9 opportunities in City procurement for
10 Minority and Women Owned Business
11 Enterprises or M/WBES.

12 This rule amendment will create a
13 new type of small purchase mechanism,
14 known as an M/WBE Noncompetitive Small
15 Purchase method.

16 The M/WBE Noncompetitive Small
17 Purchase mechanism will allow agencies
18 to make purchases of goods and services
19 from M/WBES without competition in
20 amounts not exceeding \$150,000.

21 Does anyone wish to testify?

22 We now want to recognize Bill
23 Murray.

24 Bill Murray, please state your full
25 name and affiliation for the record.

1 MR. MURRAY: Sure. My name is Bill
2 Murray and I am the New York City
3 Government Affairs Director for the
4 American Council of Engineering
5 Companies of New York or ACEC New York.

6 And I have some written comments
7 here, but as sort of a very brief
8 introduction, ACEC New York represents
9 about 270 to 280 engineering firms with
10 expertise in all fields of engineering
11 from designing buildings to bridges to
12 subway lines; all disciplines.

13 And usually throughout the course of
14 the year the composition of our
15 organization that is M/WBEs varies
16 between about 20 to 25 percent as
17 members come and go, and so this is a
18 sort of field of policy that we think a
19 lot about.

20 We have an M/WBE committee set up
21 which tries to brainstorm about ways to
22 make business better for our City' and
23 our State's engineering M/WBEs, and we
24 also engage with just about -- or many
25 of the City agencies and try to

1 recommend ways for them to make it
2 easier our M/WBE members to do business.
3 So it is something we think a lot about.

4 So ACEC appreciates this opportunity
5 to share the following comments
6 regarding the Procurement Policy Board's
7 proposed rule to create an M/WBE
8 Noncompetitive Small Purchase mechanism.

9 This amendment to the PPB rules
10 would allow City agencies to make
11 purchases of goods and services from
12 M/WBEs in amounts up to \$150,000 without
13 competition. ACEC New York supports the
14 ideals and intent of the City's M/WBE
15 program, but we do not support the
16 proposed rule in this current form.

17 Should it remain in its current
18 form, we request that it be revised to
19 exclude construction-related services,
20 which is the category engineering falls
21 under, from the rule, just as human
22 services and construction have been
23 excluded, and we have two main
24 objections to the proposed rule in its
25 current form.

1 One, it erodes the Qualifications
2 Based Selection or QBS procurement
3 method; and two, we are concerned that
4 it would result in artificial \$150,000
5 contracts that will be occurring from
6 naturally larger contracts.

7 To elaborate, the proposal is
8 inconsistent with the existing
9 Qualifications Based Selection
10 procurement method, which the PPB
11 adopted into its rules in 2006 as the
12 method for selecting design
13 professionals for City construction
14 projects.

15 QBS designates superior technical
16 qualifications and experience as a
17 paramount basis for selecting
18 engineering professionals to design
19 public projects. The City first adopted
20 QBS because they found that -- they did
21 a study and found that using this
22 procurement method expanded competition,
23 resulted in responding firms having
24 strong credentials, successfully
25 attracted firms who had not had prior

1 contracts with the City, including a
2 number of M/WBE firms, and generally
3 increased design excellence to the
4 benefit -- all to the benefit of the
5 City.

6 The proposal appears to give City
7 agencies unfettered discretion as to who
8 is awarded sizable City contracts up to
9 \$150,000 in value. The rule provides
10 that contracts of this size may be
11 awarded by agencies with no competition
12 so long as the agency "ensure that the
13 noncompetitive price is reasonable and
14 that purchases are distributed
15 appropriately among responsible M/WBE
16 vendors".

17 Alternatively, ACEC New York does
18 support competitive set-aside contracts
19 for M/WBE firms. The criteria set forth
20 in the proposal to guide City agencies
21 selection of vendors is so vague that it
22 could result in engineering firms being
23 awarded contracts that are beyond their
24 technical experience. In this way, the
25 proposed rule does not ensure the best

1 technical proposals will be selected,
2 nor does it ensure the City will receive
3 best value.

4 Should the rule proceed and be
5 adopted, ACEC New York recommends that
6 it be revised to at least prescribe more
7 detailed direction to agencies regarding
8 the selection criteria that they must
9 follow in awarding City contracts, and
10 this is especially important in our
11 field, again, because experience and
12 technical qualifications are paramount
13 to a safe and sound design of
14 infrastructure.

15 In addition, ACEC New York would
16 like the language -- request that the
17 language be amended to prevent any
18 agency from using this PPB rule to
19 artificially create multiple contracts
20 of private scopes or phases that
21 typically occur as one larger contract
22 with a team of firms working together on
23 it.

24 For these reasons, we respectfully
25 request that you not adopt the proposed

1 rule in its current form. Thank you
2 very much.

3 Should I also give you a copy?

4 THE CLERK: Yes, please. Let the
5 record reflect the written testimony
6 submitted.

7 MR. MURRAY: (Handing.)

8 THE CLERK: Thank you. Will anyone
9 else like to testify on this item?

10 (No response.)

11 THE CLERK: If no one else wishes to
12 testify, then that concludes today's
13 hearing.

14 We ask that the reporter make any
15 written submissions part of the final
16 record of the proceeding.

17 The hearing is now closed. Thank
18 you.

19 (Time noted: 9:17 a.m.)
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CERTIFICATION

I, JULIA M. SPEROS, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of July, 2018.



Julia M. Speros

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