by Anthony Crowell
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New York City spent $9 billion of its nearly $44 billion budget in FY 2003 to purchase, or procure, goods and deliver essential services through contracts. Despite the volume of business that the city processes through its contracting system, the Commission found this system to be antiquated and inflexible. Effective and efficient government service delivery must be supported by a purchasing system that embraces both modern demands and technological advances. Mayor Bloomberg has long recognized this reality and, when he took office, he committed to reforming the system. Although the Administration has already implemented a number of procurement reforms, the Mayor asked that the Charter Revision Commission also study the issue and make recommendations for formal Charter change. On November 4th, the public will have the opportunity to vote on these proposed reforms (Ballot Question 4: City Purchasing) which are abstracted in the Voter Guide and detailed fully in the Commission's final report: "Enhancing Access, Opportunity & Competition: A Blueprint for Reform".

In its report, the Commission detailed the objectives it sought to achieve through Charter change: prevention of fraud, favoritism and corruption; promotion of efficiency, effectiveness and accountability; and promotion of fairness and enhanced access for vendors. Accordingly, the Commission proposals would alter provisions that currently hamstring both the city and its potential contractors, preventing the city's procurement system from adapting as needs change over time. As the Commission recognized, such inflexibility actually impedes the achievement of important public goals.

ENCOURAGING THE EXERCISE OF FLEXIBILITY

The Commission found that the Procurement Policy Board (PPB), composed of Mayoral and Comptroller appointees, would be better suited to provide the needed flexibility, through its public rulemaking process, and ensure appropriate policy governance and oversight. The central element of the city purchasing proposal is the empowerment of the PPB to set the terms and conditions for the various alternative methods of procurement which State law allows the city to use - thereby repealing much of the inflexible detail concerning such methods that now appears in the Charter. That current inflexibility limits the kinds of determinations that the Mayor can delegate to his Commissioners.

To enhance flexibility, the Department of Citywide Administrative Services ("DCAS"), the city's centralized purchasing agency, would be permitted to delegate to the agencies that use certain kinds of unique goods - such as sewage treatment chemicals or bomb-detecting robots - the authority to purchase such items on their own. Currently, while the user agency's expertise is essential to solicit and complete the purchase, the procurement also must move through DCAS to be accomplished - creating significant duplication of effort.

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The reality of City purchasing in a post-9/11 world is reflected in another proposed revision that would permit the Mayor to determine when particular procurements raised sensitive security-related concerns, such that full public disclosures would put the security of the city and its citizens at risk. In those cases, exemptions from the Charter's notice and hearing provisions would be allowed. Although the public would not be given the details of sensitive government projects, oversight to ensure integrity in such contracts would be still be provided through the city's Department of Investigation, Comptroller, Law Department and Office of Management and Budget.

The proposal also would allow the Mayor to designate agencies - typically smaller ones that have only limited amounts of purchasing each year - to have their purchases done or assisted centrally through DCAS.

ENSURING ACCOUNTABILITY AND TIMELINESS

Another aspect of the proposal is designed to ensure accountability and to put an end to late contracting patterns. The revision would mandate a comprehensive annual Mayoral procurement report that would include a specific focus on timeliness. It would also require that the city's human services agencies develop and publish annual contract plans for client services on a schedule linked to the budget adoption cycle, so that their vendors can plan their programs and services appropriately.

PROTECTING INTEGRITY EFFECTIVELY

The proposal revises the city's vendor integrity process. the city currently uses a computerized vendor integrity data system, known as "VENDEX," to help agencies make responsibility determinations concerning potential contractors and subcontractors. This system was created in the early 1990s in response to several procurement-related scandals and contains detailed requirements for what information must be submitted, the timing of the submission, the consequences for failure to submit information, and the limited circumstances under which exceptions may be available. Over time, this "one-size-fits-all" system has proven exceedingly burdensome to vendors without necessarily providing City agencies with the most relevant information in a readily accessible format. The proposed change would require that the Mayor and the Comptroller determine jointly - with the aid of conforming legislation brought before the city Council - what information to require vendors to submit. With current technology, it is intended that the city be able to design a much more sophisticated system that will permit different reporting requirements for different kinds of procurements, depending on such variables as the value of the contract, type of procurement, and the nature of the market or industry involved.

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EXPANDING THE UNIVERSE OF VENDORS

Finally, the proposed revisions are designed to promote equal opportunities for diverse vendors to do business with the city. They incorporate a specific legal mandate for the Mayor to require citywide agency coordination in the pursuit of expanded vendor opportunities particularly for businesses that are women and/or minority owned, locally-based businesses and other small businesses, to participate as vendors to the city, increasing their economic viability and engagement with the city, and furthering competition in procurement. Because many of these businesses are small, they also would benefit greatly from the reductions proposed for the system by which City contractors report on their employment practices to the Department of Small Business Services. That system, now very burdensome, would be streamlined and improved while at the same time allowing the city still to capture the data necessary to ensure continued contracting and workforce opportunities, including for women and/or minorities.

The Commission's reports, and transcripts of public meetings and hearings, can be found at www.nyc.gov/charter
, or by calling the Charter Revision Commission at 212-676-2060.

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