

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 5687

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 30, 2023

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 5687.

As amended, this bill requires certain political subdivision contracting units (contracting units), including boards of education and local contracting units under the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.), to determine and utilize cost-saving practices when procuring goods and services. The bill provides that a cost savings analysis prescribed by the Division of Local Government Services in the Department of Community Affairs is required to include, at a minimum: factors such as charges for service, materials, delivery, soft costs, costs of acquisition, and other costs of traditional bidding such as cost overruns, protest, rework, and change orders. If the purchasing agent determines that entering into a cooperative purchasing system for the procurement of goods or services will result in cost savings, the contracting unit is required to utilize a cooperative purchasing system, unless the procurement is for new building construction or expansion.

Under the bill, prior to entering into a contract for the procurement of any goods or services, the contracting unit is required to ensure that the contractor and any subcontractors are compliant with existing State and federal laws, rules, and regulations including, but not limited to, employment discrimination, employment opportunity, wage requirements, and material and product sourcing.

This bill also requires the Director of the Division of Local Government Services in the Department of Community Affairs, in consultation with the Commissioner of Education, to develop harmonized guidelines for a local contracting unit, including boards of education, to enter into cooperative purchasing systems for the procurement of goods or services.

Under the bill, the cooperative purchasing system guidelines will include, but not be limited to:

- the types of goods and services, including work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property, that may

be procured through a contract awarded by a contracting agent under a cooperative purchasing system;

- the requirements concerning the process for advertising and soliciting bids for contracts through a cooperative purchasing system, and the factors that are required to be utilized in the awarding of contracts;
- provisions ensuring contracting units enter into contracts for the procurement of goods or services through a cooperative purchasing system with contractors and subcontractors that are compliant with existing State and federal laws, rules, and regulations related to employment discrimination, employment opportunity, wage requirements, and material and product sourcing, and any other standards determined by the director to be appropriate for inclusion; and
- information outlining the benefits of entering into cooperative purchasing systems, including but not limited to: cost-savings for the procurement of goods and services; access to experienced and reliable contractors and subcontractors; improvements in project execution time; elimination of pre-bid costs; and guaranteed maximum pricing to eliminate unforeseen expenses.

The division is required to develop a cost savings analysis template comparing the costs of cooperative purchasing systems and other methods of procurement including, but not limited to, factors such as charges for service, materials, delivery, soft costs, costs of acquisition, and other costs of traditional bidding such as cost overruns, protest, rework, and change orders. The division will: (1) distribute the template to the governing body of each municipality, county, and school district in the State; and (2) publish the cost savings analysis template on the division's Internet website in an easily accessible location and format.

Under the bill, the division is required to distribute the guidelines to the governing body of each municipality, county, and school district in this State, and publish the guidelines on the division's Internet website in an easily accessible location and format.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- specify that the purchasing agent is not required to utilize a cooperative purchasing system for the procurement of goods and services if the procurement is for new building construction or expansion; and
- delete the provision that, prior to entering into a contract for the procurement of any goods or services, the contracting unit is required to ensure that contractors or subcontractors are compliant with existing State and federal laws, rules, and

regulations concerning the prohibited activities in Belarus and Russia.