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Local Finance Notice

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The Qualified Purchasing Agent Law and its Impact on Local Public Contracts Law Contracting Units

This Local Finance Notice supplements Notice 2010-4, concerning the law that amended the Qualified Purchasing Agent (QPA) program (P.L. 2009, c. 166). It also addresses changes to contracting unit bid thresholds, the issuance of Qualified Purchasing Agent (QPA) certificates, and related issues. The amendments took effect on January 1, 2011. This Notice affects contracting units subject to the Local Public Contracts Law; [Notice 2011-16](#) has been issued concerning the QPA law and boards of education. The Division of Local Government Services and its Director have regulatory authority over the law.

Immediate Effect of the Law

Qualified Purchasing Agent and Bid Thresholds: The following are key elements of the new law:

1. A contracting unit that creates the position of purchasing agent and names an individual who holds a Qualified Purchasing Agent certificate (issued by the Division) to serve in the position, can set its bid threshold up to the maximum bid amount, currently \$36,000 (see [Local Finance Notice 2010-13](#)).
2. The law requires that anyone named to the title of purchasing agent after January 1, 2011, must hold a QPA certificate to be appointed to the position.
3. Contracting units that previously created the position of purchasing agent and appointed an individual who possesses a QPA certificate to the position may set their bid threshold at an amount that does not exceed the current "higher" threshold, \$36,000.
4. **Effective January 1, 2011 the law eliminated the previous "lower" non-QPA threshold of \$26,000 described in LFN 2010-13.** Thus a contracting unit **without** a Qualified Purchasing Agent now has a maximum bid threshold of \$17,500.
5. An individual in a contracting unit who was appointed to the position of purchasing agent prior to January 1, 2011, and who does not possess a QPA certificate, may remain in the title, but the bid threshold for the contracting unit shall be \$17,500, until the time the individual obtains a QPA certificate. The law requires a contracting unit exercising this authority to file a letter to this effect with the Director.

6. Contracting units without a QPA may also designate a person in a title other than purchasing agent to award contracts up to the \$17,500 threshold.

As a point of reference, the legal authority of a purchasing agent comes from the contracting unit's governing body (in its capacity as contracting agent) choosing to delegate its authority to award contracts under the bid threshold. All contracts over the bid threshold must be awarded by the governing body. Subject to the application of pay-to-play laws that may require governing body approval of non-bid contracts over \$17,500, the appointment of a QPA as purchasing agent permits the QPA to issue contracts not subject to pay-to-play in an amount up to \$36,000.

The QPA law also provides contracting units with new options concerning the appointment of a purchasing agent. It allows a purchasing agent to be appointed through a shared services agreement with another contracting unit who has a purchasing agent, or by contracting with an individual who possesses a QPA certificate.

The law does not require contracting units to appoint a purchasing agent. However, as noted above, as of January 1, 2011, those contracting units that have not appointed a QPA as purchasing agent now have a bid threshold of \$17,500, regardless of any prior local authorization to approve a higher threshold.

Actions to Appoint a Purchasing Agent: Under the LPCL at N.J.S.A. 40A:11-3, the governing body of a contracting unit desiring to take advantage of the QPA position must "designate" an individual (not a board) to serve as purchasing agent. This is done by creating the position by ordinance in municipalities, and by resolution in other contracting units. Once the position is created, appointment of the individual is a personnel appointment subject to the routine procedures of the agency.

Those contracting units that had appointed a QPA prior to January 1, 2011, do not have to take any action; their bid threshold continues at the locally adopted threshold (i.e., \$36,000). Contracting units that want to appoint a QPA and establish a threshold higher than \$17,500 may act by establishing the purchasing agent position (ordinance for municipalities, resolution for all others) and appointing someone with a QPA certificate. If not previously codified by ordinance or resolution, action should be taken now to do so. A [model QPA ordinance and resolution](#) to create the position of Purchasing Agent are available on the Division's web site. A copy of a resolution appointing a QPA as purchasing agent and setting the bid threshold is to be submitted to the Division.

Vacancy where the Purchasing Agent was a QPA/No Change in Bid Threshold: The QPA law provides a vacancy provision for those contracting units that had previously appointed a QPA as their purchasing agent. If a QPA vacates the position, the appointing authority for the contracting unit may appoint, for one year from the date of the vacancy, a person who does not possess a QPA certificate as "temporary purchasing agent."

With permission from the Director, a person initially appointed as QPA may be appointed for an additional one-year term. Permission is normally granted based upon the temporary purchasing agent working toward obtaining the QPA. No contracting unit may have a temporary purchasing agent for more than two consecutive years.

Contracting units using this vacancy provision do not have to lower their bid threshold during the time of the two year vacancy and can use the maximum bid threshold.

QPA Application Fee: Previously, there was no fee required for the QPA application. All applicants must now provide a \$150 non-refundable fee made payable to the State Treasurer with their application.

Activities to be Implemented Later

QPA Certification Exam and Course Requirements: The QPA law requires applicants to pass an examination to obtain the certificate. The examination is under development and will be scheduled once it is completed. In order to take the exam, applicants will be required to complete several public procurement classes provided by the Rutgers Center for Government Services.

While the courses will formally be authorized through regulation, they are expected to include the three current Public Purchasing Program and Municipal Finance Administration courses.

The basic requirements to take the exam include U.S. citizenship, high school diploma or equivalent, and being a person of good moral character. In addition, applicants must possess two years of college education and two years of full-time governmental experience performing duties relative to public procurement. Additional years of experience may be substituted for the years of college education on a year-for-year basis.

Individuals who possess a Certified Municipal Finance Officer (CMFO) certificate, a Certified County Finance Officer (CCFO) certificate, or a Certified County Purchasing Official (CCPO) certificate issued by the Division may participate in the exam without having to complete the courses noted above.

In addition the law requires all existing and future QPAs to complete a course in “green” procurement, also known as “environmentally preferred procurement (EPP).” The course is still under development. It is possible that the course may be offered online. Details on the course will be provided when available. If the EPP course is available by the time the exam is completed, the course material will be included in the exam.

Persons Serving as Purchasing Agent for Three Years without a QPA Certificate: The law provides a waiver for individuals who have been performing the duties of a purchasing agent for at least three consecutive years prior to the first day of the sixth month following the approval of QPA regulations. They may take the QPA certification exam without having to complete the courses necessary to sit for the exam. Details on this will be forthcoming when the rules are adopted.

Continuing Education/Renewal of QPA Certifications: All existing and future QPA certificates will now be subject to renewal every three years by obtaining continuing education contact hours. No certificate is due for renewal at this time. The Division will establish by regulation the number of hours required for renewal, the fee for renewals, and the renewal schedule.

Subject areas and minimum number of hours required in each area will also be established by the Division. All persons possessing a QPA certificate at the time such regulations are promulgated will have at least three years from that point to renew their certification. In addition, the amendments provide for a six month grace period to renew certifications.

Renewal of QPA certifications is mandatory with these amendments. Once the rules are adopted, certifications must be renewed each three year cycle to remain current. Failure to renew for a cycle will result in lapse of the certification. Those persons who allow their QPA certifications to lapse will be required to pass the exam to obtain a new certification, regardless of the means by which the original one was obtained.

Because there are many people who already have their QPA certification, renewal dates for this group to renew their certification will be staggered through the first year that renewals are due.

Completion of continuing education hours will be through attendance at programs and courses approved by the Division. Once the regulations for renewal have been promulgated, the Division will provide further information regarding obtaining continuing education hours and submission of renewal applications. Continuing education programs will not be approved until the regulations are adopted.

Individuals who previously obtained their QPA certification by means of completing the Registered Public Purchasing Official (RPPO) or Registered Public Purchasing Specialist (RPPS) programs administered by the Rutgers Center for Government Services will not be required to renew those certifications to maintain their QPA certification. Only the QPA certification must be renewed through the rules and guidelines yet to be established by the Division.

Adoption of Regulations

The QPA law provides for immediate adoption of rules upon publication in the New Jersey Register, with a comment process to follow and readoption within a year. This process serves to expedite the program. The rules are expected to be adopted later this year. Draft rules will be circulated to the various procurement and professional associations prior to their adoption.

Finally, local procurement officials (whether or not they are the official purchasing agent) are urged to sign up for the GovConnect "Local Procurement" role by sending an email request for registration to EGG@dca.state.nj.us. This will ensure they receive information on local procurement laws and procedures, as well as QPA related information. Enrolling also adds the user to the NJ State Contract role which provides information on state contracts.

Questions about this Notice can be referred to the Division's Certification Unit at (609) 292-9757, or by email at dkaminski@dca.state.nj.us

Thomas H. Neff, Director

Table of Web Links

Page	Shortcut text	Internet Address
1	Notice 2011-16	www.nj.gov/dca/lgs/lfns/11lfns/2011-16.doc
1	Local Finance Notice 2010-13	www.nj.gov/dca/lgs/lfns/10lfns/2010-13.doc
2	model ordinance and resolution	www.nj.gov/dca/lgs/lpcl/#ModProcForms
3	GovConnect "Local Procurement"	www.nj.gov/dca/surveys/ppsurvey.htm