

North Jersey NIGP Chapter #7

Chartered October 26, 1977

President: *Maria J. Rivera*

Treasurer/Membership: *Denise Piszkowski*

Vice President: *Kevin O'Keefe*

Secretary: *Michael Kupec, Jr.*

MINUTES REGULAR MEETING JUNE 19, 2025

The meeting was called to order at 10:23 am by President Maria Rivera. All were asked to rise for the Pledge of Allegiance.

President Maria J, Rivera asked member to remain standing for a prayer.

President Maria J. Rivera asked for a Motion to accept the Treasurer's Report. Denise Piszkowski /Treasurer reported the balance was \$20,320.27. A Motion was made by Karen and seconded by Gisel. Motion unanimously passed.

Consideration of a new Treasurer for 2026.

President Maria J. Rivera asked for Motion to accept the Minutes of the March 20, 2025. A Motion was made by Francis and seconded by Denise. Motion unanimously passed.

Guest Speakers

-Marc Pfeiffer, Associate Director Bloustein Local Center for Urban Policy Research, Rutgers University

-Andree Peart Laney, Esq. EANJ

Maria introduced Marc Pfeiffer...

Marc Pfeiffer

Importance of being engaged with professional organizations.

LPCL Determination of Aggregation (AKA, N.J.A.C. 5:34-8.2 thru 8.4)

WHAT AGGREGATION IS ABOUT

1. How to determine if goods or services that are expected to be used during a contract year should be combined with other similar goods or services in a single bid
2. What to do when a below-bid-threshold project needs ore money and it approaches or exceeds the bid threshold.
3. Remember! Circumstances count! Original estimating of what items go together

MAKING AGGREGATION DECISIONS: (NJAC 5:35-8-2(c))

- PA request estimates from using agencies as appropriate based on local conditions. Specifically:

- Prior experience of the contracting unit in demand
 - Estimates and plans for the upcoming contract year based on contracting unit's budget and purchasing history
 - The amount purchased in the previous contract year (12 months; not necessarily calendar or budget year)
- PA determines those goods and services to aggregate for potential cost savings and vendor potential savings and vendor participation. Done by determining:
 - What vendors can provide a given range of goods and services that are sufficiently similar
 - That commercial practices will result in a price advantage if otherwise aggregated ones were made separate

HOW TO CALCULATE (From PPP3 Handbook)

1. Will the bid threshold be met?
 - a.) Use professional judgement based on prior experience of the contracting unit: then
 - b.) Estimate and plan based on budget and purchasing history, considering
 - c.) The amount purchased in the previous contract year.
 - d.) Use the last 12 months as a guide
2. Should like items be combined into a single bid?
 - a.) Get user estimates
 - b.) Use the marketplace as a guide by finding out if:
 - I. Single vendors can submit bids for the range of goods and services desired: or
 - II. Industry practices will result in a price advantage if items are bid at the same time/
 - III. If either answer is yes, bid it out.

OTHER DETAILS

- Amount of money spent on a vendor is NOT the trigger point; emphasis is on the purposes of goods and services
- Amounts of goods/services that do not necessitate local unit bidding (exempt or available under co-op) are not part of a threshold calculation
- Document all findings

WHEN GOOD ESTIMATES GO BAD... IF THAT HAPPENS...

- Should be limited in application
- Determination is based if the "remaining amount" you need to buy ***pushes you over the threshold.***
- **Remaining amount** is the added amount needed to complete the work during the contract year. It happens when:
 - Initial estimates of goods and services needed during the contract year are incorrectly anticipated to be less than the bid threshold; or
 - Initial estimates of goods or services needed during the contract year that had been exempt from public bidding are later found to be incorrect.

WITH THE REMAINING AMOUNT...

- If the remaining amount for the year is itself over the threshold, **bid it out**

- If the remaining amount is between 15% of the threshold and the threshold, ask the governing body for direction.
 - Which could be quotes or a P2P procurement
- If the remaining amount and what's needed for the next year is over threshold; it would be optional to bid it all now.
 - That might make economic sense, but timing could be a problem

USE OF DISCRETION ALLOWED UNDER THE RULE (5:34-8.3(d))

- When the remaining amount is over quote, you use a governing body-approved procedure for direction to quote/P2P (as appropriate):
- Do this by:
 - Certifying to the governing body, that there is a need for more.
 - Describe how they had been procured during the contract year to date; and
 - Obtain a resolution of the governing body approving the purchase
 - Do nothing until the governing body acts

OTHER POINTS

- When a bid contract goes over-estimate, use a change order.
- Under no circumstances do you avoid bidding by knowingly miscalculating estimates or taking advantage of differences between the calendar year and the budget cycle.

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Marc Pfeiffer then moved onto ...

OVERVIEW OF TARIFFS AND PUBLIC PROCUREMENT IN 2025

(Adapted from: NIGP Legally Speaking, April 2025 by Kirk Buffington)

CURRENT SITUATION

- Historically, tariffs increase the cost of imported goods and are built into supplier pricing.
- While traditionally stable, the global trade environment has become increasingly volatile, with new tariffs being announced, implemented, changed, and then rescinded.
- These tariffs can significantly affect the cost and availability of goods and services, impacting your ability to maintain a steady supply chain.
- It is essential that government agencies and suppliers work together strategically to navigate these changes and minimize disruptions.

PROCUREMENT AND SUPPLY CHAIN COMPLICATIONS

- Impact of Buy American has its limits, and many goods governments use have no domestic source.
- Leads to budget strain and potential for alternative suppliers or renegotiating existing contracts, both of which can be hard to do.
- The uncertainty surrounding tariffs can also lead to delays in supplier production and delivery.
- Large organizations will often include "price adjustment clauses as part of

their general T&C language. Historically, NJ (and most) local governments do not use them as standard, as prices generally remain stable throughout a contract.

- NJ exceptions tied to a periodic index rate: e.g., fuel oil, asphalt, index-rate based extensions. Some 40A:11-15 long-term contracts also include them.

TYPES OF PRICE ADJUSTMENT CAUSES

• **Price Changes Due to Tariffs**

If the government adds new tariffs or changes existing ones after we sign this contract, and these changes significantly increase the supplier's costs, the supplier can ask for a price increase. The supplier must provide proof showing how the tariffs affect their costs. Both parties will work together in good faith to agree on a fair price adjustment that doesn't exceed [X]% of the original contract price.

• **Collaborative Price Adjustment Clause**

Both parties understand that tariffs or trade restrictions might make it harder for the supplier to keep the same prices. If this happens, the supplier can inform the agency about the impact and provide reliable cost information. Within 15 days, both parties agree to work together in good faith to discuss possible solutions like price changes, substitute products, or finding new suppliers. The goal is to keep public services running smoothly and ensure supplies continue without interruption

• **Force Majeure** (*Modify typical text with the following highlighted text*):

Sometimes events happen that are beyond anyone's control and make it impossible to fulfill contract obligations. These events include (but are not limited to): natural disasters; contagious diseases, epidemics, and pandemics (including coronavirus or COVID-19); fires; floods; **government actions or orders**; utility service interruptions; local, regional, or state emergencies; quarantines; severe weather; war...

TREAT AS A COLLABORATION AND STRATEGIC PARTNERSHIP

- If a supplier claims that **tariffs have caused a price increase**, ask for **verifiable documentation** to ensure the price change is legitimate and justified for your circumstances.
- **Examples:**
 - Copy of the official tariff schedule or notice (e.g., from the U.S. International Trade Commission, or Customs and Border Protection (CBP))
 - Federal Register notice showing the imposition of the tariff with effective dates and Harmonized Tariff Schedule (HTS codes)
 - Reference to the Harmonized Tariff Schedule (HTS) number for the product

PRODUCT CLASSIFICATION (HST CODE)

- Request the **Harmonized Tariff Schedule (HTS) code** used for the product being imported to ensure the product is subject to the tariff claimed
 - The Harmonized Tariff Schedule, is the primary resource for determining tariff (aka, customs duties) classifications for goods imported into the United States
- **Learn about how tariffs** and documentation work: [Harmonized Tariff Schedule Information \(https://learning.usitc.gov\)](https://learning.usitc.gov).
- **Customs Entry Forms or Import Documentation:** These are your best proof that the supplier actually paid the tariff. Key documents include:
 - **CBP Form 7501 (Entry Summary):** This shows tariff duties paid upon entry to the U.S.

- **Commercial invoice** showing the importation of goods (provides the quantity and tariff amount)
- **Bill of lading or shipping documents** indicating international sourcing
- **Use them to look for:**
 - Duty or tariff amounts to determine the impact on what you bought
 - Supplier name as importer of record or a third-party customs broker to show supply chain.

CHALLENGES

- Given the vendor, timing, and specific product, how does the PA know that the specific products you are receiving require the additional tariff to be paid?
- Are they billing for products you received, or did you receive products from existing inventory?
- You may not know the answer. It depends on the items (e.g., a special order from a specific manufacturer) and the veracity of the seller.

BONUS

U.S. Tariff Changes Time: January 1- June 17, 2025 (Generated by Claude. AI) **Overall Impact Summary**

Peak Tariff Rates (April 2025):

- Average effective U.S. tariff rate reached 28% (highest since 1901)
- Some Chinese goods faced up to 145% tariffs

Current Status (June 2025):

- Average effective tariff rate: approximately 15.6%
- Significant reduction due to China trade deal and policy rollbacks
- Still highest sustained levels since the 1930s

Economic Impact:

- Estimated \$1,200 average tax increase per U.S. household
- Consumer price increases of 1.5-2.2% depending on policy combinations
- Significant impacts on apparel, footwear, and automotive sectors

Maria introduced Andree Laney...

Andree Laney

Andree is a former senior trial attorney for the Equal Opportunity Commission where she litigated employment discrimination cases in Federal Court. She has served as an EEOC judge where she conducted hearings and resolved discrimination charges brought by federal employees against all federal agencies. Andree also served as Employment Counsel/Labor Relations Director for the City of New York, where she counseled management on personnel and employee-relation issues. She has also served as counsel of several major law firms in New York Metropolitan Area. Andree also provides on-site compliance training and teaches HR law courses

AI – Legal Review for Municipal Government & Purchasing

- Must give AI specific information for it to be useful.
- AI can be wrong and give incorrect information.
- Courts will hold the drafter responsible for vague language
- Never ask AI for legal advice.
- How and when to use AI.
 - Perhaps can be used for market analysis.
 - IA can summarize and help locate specific areas of documents that then need human review and interpretation.
 - AI is good for administrative and low complex tasks.
 - Does not necessarily do well with nuances and context of specific circumstances.
 - Cannot do qualitative analysis ...such as “which vendor is best?”
 - Human discretion should ultimately make the determination

Followed by a Q and A.

OLD BUSINESS – ((REVIEWERS OF QPA EXAM SHOULD BE FROM PUCHASING ASSOCIATIONS))

NEW BUSINESS – None to report.

Closing Comments

President Maria J. Rivera mentioned that our September 2025 meeting would be held at the Somerville Elks Lodge 1068, 375 Union Avenue, Bridgewater, NJ 08807.

A motion was made and seconded to adjourn the meeting at 12:44 PM. Motion unanimously passed.

Respectfully Submitted,

Michael Kupec, Jr.

Secretary