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To: Department of Public Works
From: Frank Moroney, Chief Deputy Comptroller
Date: June 14, 2010

Re: Comptroller Directive # 2010-1 – Approval of Requirement Contracts

Before approving requirements contracts under the Comptroller's authority pursuant to Section 402 of the Nassau County Charter, the Comptroller's Office is issuing Directive # 2010-1 to ensure that the processing of requirements contracts comply with all applicable state and local laws, regulations, policies and orders, including but not limited to, Article 5-A of the General Municipal Law, the County Charter, County Board of Supervisors' Resolution No. 928 of 1993, and Executive Order 1-1993 (as modified March 15, 1994).

The purpose of Directive # 2010-1 is to ensure that the contracting department received quotes from every vendor who has a requirements contract with the County and who is eligible to perform the task(s) specified under the contract and also to ensure that the County is obtaining the best services at the most efficient and cost effective means.

The Comptroller's Office routinely receives requirements contracts for maintenance and repair work. In addition to providing documentation that the contract was awarded to the lowest responsible bidder as required under state law, the department must submit the following documentation to the Comptroller's Office:

- Bid proposals from at least three (3) contractors.
- All pricing proposals for each category of work that was submitted from each eligible vendor.
- Once the contract has been awarded, the department must, for each work order, solicit and receive proposals from all eligible vendors who currently have requirements contracts with the County and who would have been eligible to perform the tasks required by the work order. All

of this information must be attached to the contract advisement submitted to the Comptroller's Office.

The Comptroller will not approve the contract if the department does not document and include the required documentation.

Directive # 2010-1 is effective immediately and supersedes any/all existing Directives that have been issued on this subject matter. Questions regarding this Directive should be addressed to Deputy Comptroller John Mastromarino, Office of the Comptroller, 240 Old Country Road, 2nd Floor, Mineola, New York 11501; (516) 571-2386.

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To: Agency/Department Heads/Fiscal Officers
From: Frank Moroney, Chief Deputy Comptroller
Date: June 14, 2010
Re: *Comptroller Directive # 2010-2 – Approval of Contract Overruns on Capital Projects*

The Comptroller's Office has been reviewing contract overruns on various capital projects and has determined that a significant number of these overruns do not follow the County's current procurement policy. The Comptroller's Office will not approve such overruns where the department has not followed county procedure and/or where the department has not submitted the proper documentation to justify the overrun. For example, the Comptroller's Office will not approve a contract overrun that exceeds ten percent (10%) of the original contract and the county executive or deputy county executive has not approved the overrun. County procurement procedures require approval beyond the department head.

With respect to change orders exceeding 10% of the overall contract amount, the County's current procurement policy provides that "[a]ll changes that cumulatively exceed ten percent of the original contract amount shall be approved by the Vertical DCE." The Comptroller's Office brings this provision to each department head's attention due to the fact that departments continue to submit several contract overruns that each total under 10% of the contract amount but cumulatively, well exceed 10% of the overall contract amount. In some instances, such incremental overruns have cumulatively exceeded well over 50% of the original contract amount. The Comptroller's Office will not approve any overruns which, in the aggregate, total more than 10% of the contract amount.

In addition, contract overruns that have been approved for additional work that is outside the scope of the original contract, and are not for emergency services, will not be approved by the Comptroller's Office. In accordance with County policy, contracts that are amended to include work not in the original contract are considered new contracts that must go through the proper contract initiation process in order to be approved.

Where the additional work pertains to emergency services, the department must clearly state the nature of the emergency and detail the project parameters including the justification for the emergency services, cost and the reasons for choosing this vendor instead of other vendors who are on stand-by for emergency services. As part of the overrun package submitted to this Office, the department must include all price proposals submitted by each stand-by vendor.

Directive # 2010-2 is effective immediately and supersedes any/all existing Directives that have been issued on this subject matter. Questions regarding this Directive should be addressed to Deputy Comptroller John Mastromarino, Office of the Comptroller, 240 Old Country Road, 2nd Floor, Mineola, New York 11501; (516) 571-2386.

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To: Department of Social Services, Department of Health, Senior Citizens Affairs, Mental Health and Youth Board
From: Frank Moroney, Chief Deputy Comptroller
Date: June 14, 2010
Re: *Comptroller Directive # 2010-3 – Comptroller Approval of Health and Human Services Contracts*

Before approving contracts under the Comptroller's authority pursuant to Section 402 of the Nassau County Charter, the Comptroller's Office is issuing Directive # 2010-3 to ensure that the processing of health and human services ("HHS") contracts comply with all applicable state and local laws, regulations, policies and orders, including but not limited to, Article 5-A of the General Municipal Law, the County Charter, County Board of Supervisors' Resolution No. 928 of 1993, and Executive Order 1-1993 (as modified March 15, 1994).

The purpose of Directive # 2010-3 is to ensure that the County and County taxpayers are receiving and paying for the best possible service at the lowest possible cost. Upon review of the various HHS contracts that have been presented to the Comptroller's Office, the Comptroller's Office has identified several areas where County policy is consistently not being followed.

Specifically, the Comptroller's Office has reviewed scores of HHS contracts that continue to use the same vendors for more than five (5) years and in some cases, exceeding a decade without going through the competitive bidding process. The rationale cited in either the staff summary or the comptroller approval form is that the agency has been using the vendor for several years with satisfactory results. In addition, the department cites the fact that the vendor is listed on a state-approved contractor list for the services sought and the services are mandated. Some contracts cite sole source provider without providing either of the following: (1) any documentation to substantiate that the chosen vendor is the only vendor who provides the services requested or (2) that efforts were made to locate other vendors.

Finally, a number of HHS contracts are submitted to the Comptroller's Office for approval after services have already been rendered. Such a practice is in violation of the applicable laws, rules and regulations cited in this memo.

The Comptroller's Office will not approve contracts that do not follow the appropriate County procedures. The referenced departments must adhere to the following:

1. All HHS contracts must go through the County's competitive bidding process at least every five (5) years even where the vendor was taken from the New York State approved contractor list for the services requested.
2. Where a county agency cites sole source procurement as the justification for selecting a particular vendor, the agency must provide clear documentation that the vendor is the only vendor in Nassau County that provides the services requested. The department must also detail what efforts were made to locate other vendors. A self-serving letter from the vendor stating that it is the only provider of the services needed is unacceptable evidence of sole source procurement. The agency is required to attach the following documentation to the contract:
 - i. The specific qualifications of the vendor and how their special skills, equipment or services are unique.
 - ii. If the services are emergency services that cannot wait for the contract approval process, the department must send a separate memorandum to the deputy county executive and the Comptroller's Office setting forth the justification for the services and why performance cannot wait until the approval process is complete. This memorandum must be received and written approval must be granted by the deputy county executive and the Comptroller's Office prior to services being performed.
3. Contracts taken from the state contracts list, although need not go through the normal competitive bidding process, must clearly state the reasons why the department resorted to the state contracts list and why this method is more cost-effective and beneficial for the County.
4. Partial Encumbrance Contracts – The department is responsible for including the maximum contract amount in the payment section. The Comptroller's Office will not approve partially encumbered contracts unless specific language is included in the contract to justify the partial encumbrance.
5. Contract Advances – Where a multi-year contract calls for an advance, the contract must specify which years the advance is to be given. Advances shall not exceed fifty percent (50%) of the overall contract amount.

Directive 2010-3 is effective immediately and supersedes any/all existing Directives that have been issued on this subject matter. Questions regarding this Directive should be addressed to Deputy Comptroller John Mastromarino, Office of the Comptroller, 240 Old Country Road, 2nd Floor, Mineola, New York 11501; (516) 571-2386.