

(H. B. 866)  
(Reconsidered)  
(Reconsidered)

**(No. 127)**

(Approved October 7, 2005)

**AN ACT**

To amend Section 10.001; amend subsections (b) and (i) of Section 10.002 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico,” in order to increase the limits set for the acquisition of equipment, food, materials, and other supplies from ten thousand (10,000) dollars to forty thousand (40,000) dollars; to increase the limits set for public construction and/or improvements works from forty thousand (40,000) dollars to one hundred thousand (100,000) dollars; to designate not less than fifteen (15%) percent for purchases excluded from bidding for small and medium enterprises, and companies that manufacture their products in the Island; to establish parameters and conditions; and for other purposes.

**STATEMENT OF MOTIVES**

Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico,” was approved for the purpose of granting greater powers to the municipalities, as well as the necessary administrative and regulatory tools for their effective operations, after the Legislature of Puerto Rico recognized that these were the government entities of primary services closest to the citizenry.

It was then recognized that, in order to comply with their duties and responsibilities, the municipalities should acquire those materials and

supplies for the adequate performance of their regular operations. To achieve it, a purchases and supplies system was established under specific parameters, so they could carry out their duties without impairing the public interest, and open competition procedures were established so that they could receive the resources available in the market at a balanced price and quality what resulted in a higher yield of public funds. However, it has been recognized that these processes should comply with requirements of time, terms and procedures, which not necessarily offer immediate results. For this, the Legislature established remedial mechanisms that allowed the municipalities to acquire said materials and supplies without the requirement of a formal bid process. All this was carried out under strict parameters, among them, the presentation of a previous registration of eligible bidders, the requirement of at least three (3) quotes, and compliance of purchasing rules for these purposes, among others.

Section 10.002, likewise establishes the parameters to be followed for minor works without the holding of bids. This was so done so that the municipality could carry out repairs to streets, curbs, and sidewalks, as well as any other works, in prompt answer to the needs of their citizens.

Although these mechanisms offered by the law have been extremely useful for the normal operations of the municipalities, they have not been reviewed since their approval. In 1991, was established that a ten thousand (10,000) dollar limit for purchases and acquisitions and that a forty thousand (40,000) dollar limit for works and improvements under the same conditions without requiring the holding of a bid would be sufficient to comply with said purposes. In view of the substantial increase in the construction costs and consumption articles, these parameters established by the United States

Office of Management and Budget, (OMB English acronym), respond to the economic reality of that time (*sic*).

In its efforts to address this reality, the OMB amended Circular A-10.002, Uniform Requirements for Assistance to State and Local Government Procedure Standards, in August 1997, in order to attune purchase and acquisition processes to present economic realities, among other administrative processes. It is well known that a large part of the appropriation of municipal budget for its operations and for other works depend on the federal funds whether through the Commonwealth or directly to them, and that as an essential requirement, its administrative system must be in harmony with the requirements established for its administration. Said parameters are recognized by the Office of the Comptroller of Puerto Rico, in the *Folleto informativo sobre el proceso de compras en el Gobierno* (Informative Brochure on Government Purchases' Process) of November 1998.

The present amendments are necessary to temper the local legislation with federal legislation, and therefore, simplify the same through a uniform legislation in harmony with the body of laws in effect, the applicable regulations, and the economic reality of the Island.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- Section 10.001 of Act No. 81 of August 30, 1991, as amended, is hereby amended to read as follows:

“Section 10.001.- Purchase of Goods and Services by Public Bidding

Except as otherwise provided by this Act, the Municipality shall comply with the public bidding procedure for:

(a) The purchase of materials, equipment, food, medicines, and other supplies of a like or similar in nature, use or characteristics, in excess of forty thousand (40,000) dollars.

(b) Any public construction work or improvement by contract exceeding one hundred thousand (100,000) dollars.

(c) Any sale of real property and chattels.

Any public bid notice shall be made at least ten (10) days before it is to be held, by publication at least once (1), in one (1) newspaper of general circulation in the Commonwealth of Puerto Rico.

Change orders, purchase of materials, equipment, food, medicine and other supplies and all public construction and improvement works described in this Section, that added up to the agreed price in the original purchase or work exceed the sums established in subsections (a) and (b) of the first paragraph of this Section are hereby prohibited.

The municipality shall establish regulations which shall include, among other matters, the conditions and requirements of the municipality for the acquisition of the necessary services, equipments, and/or supplies. It shall also establish a clause compelling the municipality to notify by certified mail with receipt acknowledged the persons who were not awarded the bid. The Municipal Legislature shall authorize the approval of regulations to such purposes.

It shall be the duty of each Municipality of Puerto Rico to establish the corresponding mechanisms to set aside not less than 15% for purchases excluded from public bidding to small and medium size businesses as well as to companies that manufacture their products in the Island provided they can provide it (*sic*).

The Municipality shall establish regulations which shall include, among other matters, the conditions and requirements of the municipalities for the acquisition of the necessary services, equipments and/or supplies. It shall also establish a clause compelling the municipality to notify by certified mail with receipt acknowledge to the persons who were not awarded the bid. The Municipal Legislature shall authorize the approval of regulations to such purposes.

Section 2.- Subsection (b) and subsection (i) of Section 10.002— Purchases excluded from public bidding— of Act No. 81 of August 30, 1991, as amended, are hereby amended to read as follows:

“Section 10.002.—Purchases excluded from public bidding.—

No notice or holding of a public bidding shall be needed for the purchase of goods and services in the following cases:

(a) ...

(b) Annual purchases up to a maximum amount of forty thousand (40,000) dollars for materials, equipment, food, medicine, and other supplies equal or similar in nature, use or characteristics. Before the award of the purchase order, at least three (3) quotes shall be obtained from accredited suppliers who are duly registered as bona fide businesses under the laws of the Commonwealth of Puerto Rico.

(c) ...

(d) ...

(e) ...

(f) ...

(g) ...

(h) ...

(i) Every contract for the construction, repair or reconstruction of a public work or improvement that does not exceeds one hundred thousand (100,000) dollars, after due consideration of at least three (3) quotes in the selection of the most beneficial for the best interests of the municipality.

...”

Section 3.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 127 (H.B. 866) (Reconsidered) (Reconsidered) of the 2<sup>nd</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to amend Section 10.001; amend subsections (b) and (i) of Section 10.002 of Act No. 81 of August 30, 1991, as amended, known as the “Autonomous Municipalities Act of the Commonwealth of Puerto Rico,” in order to increase the limits set for the acquisition of equipment, food, materials, and other supplies from ten thousand (10,000) dollars to forty thousand (40,000) dollars; to increase the limits set for public construction and/or improvements works from forty thousand (40,000) dollars to one hundred thousand (100,000) dollars; etc.,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 3rd of March of 2006.

Francisco J. Domenech  
Director

