



George Latimer  
County Executive

Department of Health

Sherlita Amler, M.D.  
Commissioner

**71807**

DATE: September 25, 2019

TO: Board of Acquisition and Contract

FROM: Sherlita Amler, M.D.  
Commissioner  
Department of Health

SUBJECT: Authority to exempt from the Westchester County Procurement Policy, pursuant to Section 3(a)(xxi) thereof, the procurement of an agreement with White Plains Bus Co., Inc., pursuant to which it will provide transportation of pre-school children with special needs.

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Authority is hereby requested from your Honorable Board to exempt from the Westchester County Procurement Policy, pursuant to Section 3(a)(xxi) thereof, the procurement by the County of Westchester (the "County") of an agreement with White Plains Bus Co., Inc. ("White Plains Bus"), pursuant to which White Plains Bus will provide transportation of pre-school children with special needs, for the period from October 21, 2019 through August 31, 2020 (the "Agreement").

As your Honorable Board is aware, the County is mandated by Section 4410 of the New York State Education Law, and its implementing regulations in 8 NYCRR Part 200, and by Title II-A of Article 25 of the New York State Public Health Law, to pay for education and transportation of children with special needs.

By a resolution approved on July 13, 2017, your Honorable Board authorized the County to enter into two (2) agreements (contracts E/T533 and E/T537; collectively, the "Two Agreements") with Acme Bus Corp. ("Acme"), pursuant to each of which Acme would, in the aggregate, provide transportation of pre-school children with special needs to and from the following programs (the "Seven Programs"), among others:

- 1.) CSED - South Salem/Vista

- 2.) Easter Seals - Project Soar
- 3.) Thera Care - Bright Beginnings/Yorktown
- 4.) CSED - Katonah CCC The White House
- 5.) CSED - Mount Kisco/Boy's & Girl's Club
- 6.) CSED - Mount Kisco/Child Care
- 7.) CSED - Yorktown/Country Children's Center

Acme has repeatedly breached the Two Agreements with regard to transportation services to and from the Seven Programs.

For this school year, the breaches began when Acme notified the County a few weeks before the start of school that, due to a driver shortage, it would not provide services regarding the Seven Programs, despite its contractual obligations to do so. In an attempt to avoid a disruption in transportation services for these children with special needs, the County consented to Acme's proposed subcontract with Phoenix Transportation Services Inc. ("Phoenix") for the transportation services to and from the Seven Programs.

From the first day of school, Phoenix proved unwilling or unable to provide consistent and reliable service, as required by the Two Agreements and Phoenix's subcontract from Acme. This resulted in some children not being able to get to school. The Department of Health ("DOH") has been actively working with Acme to address this issue of inconsistent and unreliable bus service, which has impacted 45 children with special needs and their families, as well as the educational work of the Seven Programs. Despite DOH's on-going efforts, Acme has not been able, either by itself or in conjunction with Phoenix, to resolve these issues and consistently provide reliable transportation service regarding the Seven Programs as is contractually required.

Therefore, in order to try to prevent disruption in transportation services for the children served by the Seven Programs, DOH conducted an expedited search for alternative providers for these bus services. The County inquired with several bus companies in the region, including companies with which DOH currently works under other contracts for other transportation services for children with special needs. The only company that submitted a proposal and has both the driver availability and the required number of vehicles to transport all of the approximately 45 children to the Seven Programs is White Plains Bus.

White Plains Bus has previously performed satisfactory work for the County. The County is, therefore, confident that White Plains Bus will provide consistent, safe, reliable transportation services, and will not cause the County to encounter service issues like those experienced with Acme.

Based upon the foregoing, it is proposed that the best interests of the County would be served by exempting the procurement of the proposed Agreement from the Westchester County Procurement Policy, pursuant to Section 3(a)(xxi) thereof. Accordingly, a resolution to exempt this procurement is hereby submitted for your consideration.

SA/RR/bdm/nn

**RESOLUTION**

Upon a communication from the Commissioner of Health, be it hereby

**RESOLVED**, that pursuant to Section 3(a)(xxi) of the Westchester County Procurement Policy, it is hereby determined that application of the procedural requirements contained therein, including the necessity of soliciting proposals, is neither cost effective nor expedient, and accordingly, not in the best interests of the County of Westchester in connection with the procurement of an agreement with White Plains Bus Co., Inc. ("White Plains Bus"), pursuant to which White Plains Bus will provide transportation of pre-school children with special needs, for the period from October 21, 2019 through August 31, 2020.

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APPROVED BOARD OF ACQUISITION & CONTRACT - 09/26/2019  
WESTCHESTER COUNTY SECRETARY