



THE MARKETING OF RECYCLABLE MATERIALS

This concerns the application of the Local Public Contracts Law, specifically the meaning of N.J.S.A. 40A:11-5(s), to the collection of the most common recyclable materials (glass, tin-plated steel cans, plastic, aluminum, newspaper, corrugated cardboard, newsprint and various other paper grades) at curbside or from a contracting unit's public works' facility or any other recycling drop off location operated by the contracting unit. The question is whether the collection at these locations are part of the 40A:11-5(s) exemption, or subject to the solicitation of quotations or receipt of bids, depending on the dollar value.

There is a further question as to the type of facility that qualifies as an end user or end processor market ("market") for the various types of recyclable materials. Does a facility, which directly receives recyclable materials from the curbside, or from various recycling drop off locations operated by the contracting unit qualify as a market?

According to the Bureau of Recycling and Planning (Bureau) in the State Department of Environmental Protection, recyclable materials do not necessarily go directly to a market from pick up at curbside, public works yards, or any other recycling drop off location operated by the contracting unit. Most local programs in our State take or have a hauler deliver this type of recyclable materials to a "Class A Recycling Center." A Class A Recycling Center is typically where commingled recyclable materials are separated by material or grade and otherwise manually or mechanically processed as required by an end user or transportation specifications. The material is then ready for shipment to a market. It is at that "market facility" where the actual conversion to another product(s) takes place.

It is the Bureau's position that as long as a local contracting unit finds a Class A Recycling Center for processing as required by end user or transportation specifications, that facility meets the requirements of N.J.S.A. 40A:11-5(s) as a market, therefore, requiring bidding as the basis for a contract is not necessary. The exception in the law applies even though the Class A Recycling Center would eventually transport the recyclable materials as noted above to an actual market. Class A Recycling Centers are not licensed by the State, but are subject to the provisions of the Municipal Land Use Law and the Uniform Construction Code at the local level. However, the State does have regulations regarding the operations of such centers.

This exception applies only when the collection is done by contracting unit employees. Conversely, contracts for curbside pick up by a private hauler or transportation by a private hauler from a public works yard or any other recycling drop off location to a Class A Recycling Center or a market would be subject to either the solicitation of quotations or the receipt of bids. Both are examples of a hauling contract and do not fall under the exception.

If a local contracting unit wishes to establish a recycling program, or a recycling cooperative program by combining the collection (subject to the solicitation of quotations or receipt of bids) and marketing (an exemption from receipt of bids) components, it may do so pursuant to the provisions of N.J.S.A. 40A:11-5(5). This provision of law authorizes a negotiated contract process subject to approval of the Director of the Division of Local Government Services.

There are other classifications for facilities handling various types of recyclable materials that meet the exception of N.J.S.A. 40A:11-5(s). The classifications are as follows:

Class A. Recycling Center

Glass, tin-plated steel cans, plastic, aluminum, newspaper, corrugated

[Class B. Recycling Center](#)

[Class C. Recycling Center](#)

[Class D. Recycling Center](#)

cardboard, newsprint and various other paper grades

Concrete, asphalt, tree stumps, tree parts, logs and tires

Brush, vegetative growth, leaves and grass

Electronic parts (computers), used oil, fluorescent light bulbs and similar lighting applications

Materials approved for acceptance at Recycling Centers are governed by regulations found at [N.J.A.C. 7:26A-1.1 et seq.](#) The regulations may be found on the website at: www.state.nj.us/dep/dshw/resource/rules.

If a local contracting unit concludes that other types of material (street sweepings, pond sediment, etc.) can qualify under the "marketing" exemption of [N.J.S.A. 40A:11-5\(s\)](#), it can apply to the Bureau of Resource Recovery and Technical Programs in the Division of Solid and Hazardous Waste for a determination.

For more information, visit the Division of Solid and Hazardous Waste's website at www.state.nj.us/dep/dshw.

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