

SCHOOL LAW AND MUNICIPALITIES

INFORMATION MEMO

MAY 22, 2026

Appellate Division Holds That Piggybacking is Not Available for Public Works Contracts Pursuant to General Municipal Law § 103(16)

Yesterday, the Appellate Division, Third Department issued its decision in *Lynch, Inc. v. Board of Education of the Maine-Endwell Central School District*, which affirmed the February 13, 2025, lowercourt judgment that was the subject of our [February 27, 2025, client memorandum](#).

“Piggybacking” refers to a governmental entity using another governmental entity’s existing competitively bid contract to purchase the same goods or services, usually at the same or lower price, instead of conducting its own bid process. On February 13, 2025, the trial level court in Broome County held that the “piggybacking” exemption, General Municipal Law (GML) § 103(16), cannot be used for “public works projects” and those projects can only be awarded after strict compliance with the traditional competitive bidding process outlined in GML § 103(1) and (2). “Public works projects” were defined as “construction or repair projects undertaken by municipalities on their infrastructure.”

In its May 21, 2026, decision, the Appellate Division agreed with the Broome County court and held that GML § 103(16) does not authorize the use of piggybacking to award a public works contract.

Recommended Courses of Action

In light of this decision, we recommend that our municipal and school district clients not use piggybacking to award contracts for public works construction projects and, instead, proceed through the competitive bidding framework required by GML §§ 101 and 103. At the same time, this decision leaves room for continued use of GML § 103(16) in the narrower circumstances identified in the statute itself, namely true purchases of apparatus, materials, equipment or supplies and contracts for services related to the installation, maintenance or repair of those items. Accordingly, public entities should review current procurement practices to distinguish genuine purchasing transactions from public works contracts that must be bid.

For pending projects that have not yet been awarded, the recommended course is not to issue an award through piggybacking and, instead, utilize the traditional competitive bidding process.

Entities with active projects should consult counsel and evaluate the contract’s scope, the stage of performance and whether any remaining work or future phases should be procured through competitive bidding rather than through additional piggybacked awards or amendments.

If you have any questions regarding this information memo, please contact [Lindsay Crocker](#), [Ed Hourihan](#) or [Greg McDonald](#), any attorney in Bond’s [school law](#) or [municipalities](#) practice groups or the attorney at the firm with whom you regularly communicate.

