

Summary of NYS Procurement Integrity Act
S. 3984-A (DiFrancisco)/A. 6355-A (Peoples-Stokes)
by Alex Camarda, Reinvent Albany
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Part A: Restores Comptroller's Authority to Review Certain Contracts Repealed by the Legislature in 2011

- Section 1
 - Reinstates comptroller approval of OGS centralized contracts and purchase orders or procurement transactions issued under centralized contracts before the contracts are executed or become effective.
- Section 2
 - Establishes a \$250K threshold above which certain State University trustee purchases for materials, services, construction or printing would be reviewable by the state comptroller (a \$125K threshold would be established for single or sole source contracts or when awards are contested by a vendor). Comptroller review is not currently required for materials, construction or printing but is required for services.
 - The comptroller may lower the \$250K threshold to \$50K if proper internal controls are not in place or guidelines for competitive bidding are not followed.
 - Requires guidelines promulgated by the Trustees to require competitive proposals be solicited, at the lowest prices available, and utilizing other state agency contracts.
 - Lowers the purchase threshold for cash accounts for purchases of materials, supplies or services from \$1,000 to \$250.
 - Continues to allow non-competitive bidding for contract extensions for campus transportation provided the original contract was competitively bid or evaluated after a Request for Proposals.
- Section 3
 - Requires comptroller approval of purchase of goods and services (above \$75K for services) by state university health care facilities.
- Section 4
 - Eliminates authority of the State University Construction Fund to procure without prior approval of any other state officer or agency.
- Section 5
 - Establishes a \$50K threshold above which certain City University trustee purchases for materials, services, construction or printing would be

reviewable by the state comptroller. Comptroller review is not currently required for materials, construction or printing.

- Enables the Trustees to confer with the State Commissioner in raising the \$50K threshold or exempting categories of articles or commodities of procurement from the threshold.
- Requires guidelines promulgated by the Trustees to require competitive proposals be solicited, at the lowest prices available, and utilizing other state agency contracts.
- Section 6
 - Eliminates authority of the City University Construction Fund to procure without prior approval of any other state officer or agency.
- Section 7
 - This section shall take effect immediately.

Part B: Authorities must use agency guidelines for contracting unless authorized otherwise

- Section 1
 - Requires public authorities and benefit corporations with a majority of members appointed by the governor to establish procurement guidelines consistent with methods of evaluating bids and proposals followed by state agencies.
- Section 2
 - This section shall take effect immediately.

Part C: Bans not-for-profit organizations in most instances from doing bidding for contracts

- Section 1
 - Creates a new section of the public authorities law forbidding third party contracting (where the third party is a vehicle primarily or exclusively created for procurement) by public authorities unless authorized by the state legislature.
 - Enables the state comptroller to promulgate rules specifying standards to evaluate whether a contract is forbidden by this section.
- Section 2
 - This section shall take effect immediately.

Part D: Requires comptroller approval of contracts above \$1 million bid out by the SUNY Research Foundation

- Section 1
 - Adds a new section to the state finance law requiring comptroller approval of contracts above \$1 million by the Research Foundation of the State University of New York (SUNY) when made with state funds.
 - Comptroller review shall be done within 90 days unless an extension is required for good cause.
- Section 2
 - This section shall take effect immediately.

Part E: Provides for earlier notice of uncompetitive procurements in the Procurement Opportunities Newsletter (aka the NYS Contract Reporter)

- Section 1
 - Clarifies the Procurement Opportunities Newsletter (aka the NYS Contract Reporter) should include agreements awarded by an agency through single or sole source procurement or other forms of uncompetitive procurement.
- Section 2
 - Clarifies certain notification information already disclosed in the Contract Reporter related to procurements applies to procurements in excess of \$50,000.
 - Creates a new set of disclosures in statute for single and sole source procurements in the Contract Reporter.
 - Requires additional disclosure of information for projected single and sole source procurements in semi-annual reports state contracting agencies already published in the Contract Reporter.
- Section 3
 - Requires public authorities or public benefit corporations to submit information to the Commissioner of ESDC so that publication in the Contract Reporter occurs at least 15 business days prior to a contract award when the award is granted through a non-competitive process.
 - Requires state agencies to submit exemptions from advertising non-competitive procurement contract opportunities to the Commissioner of ESDC so that publication in the Contract Reporter occurs at least 15 business days prior to the delivery of the exemption request to the state comptroller.
- Section 4

- Clarifies the comptroller may not file or approve any contract not advertised in the Contract Reporter for at least 15 business days, including construction contracts.

Part F: Prohibits conflicts of interest for officers and employees of agencies and authorities, and board members for authorities

- Section 1
 - Prohibits conflicts of interest for state officers and employees in state procurements by preventing state officers or employees from:
 - Having an interest in a procurement except as permitted by law;
 - Taking actions that are a conflict of interest under the Public Officers Law or create the perception of impropriety, favoritism or preferential treatment.
 - State officers or employees must recuse themselves in writing with the agency head, agency ethics officer, and agency contracting officer if they have a conflict or other interest in the procurement, which will be included in the procurement record.
- Section 2
 - Creates a new **Title 3** in the public authorities law prohibiting conflicts of interest for state authority board members, officers and employees from:
 - Having an interest in a procurement except as permitted by law;
 - Taking actions that are a conflict of interest under the Public Officers Law or create the perception of impropriety, favoritism or preferential treatment.
 - State officers or employees must recuse themselves in writing with the authority ethics officer, CEO of the authority and board chair, appointing official, and authority contracting officer if they have a conflict or other interest in the procurement, which will be included in the authority's procurement record.