

STATE OF NEW YORK

6809--A

2021-2022 Regular Sessions

IN SENATE

May 18, 2021

Introduced by Sens. REICHLIN-MELNICK, BIAGGI, BORRELLO, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- recommitted to the Committee on Finance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law and the education law, in relation to restoring oversight of certain contracts by the comptroller; and to repeal certain provisions of the education law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (a) of subdivision 2 of section 112 of the state
2 finance law, as amended by chapter 257 of the laws of 2021, is amended
3 to read as follows:
4 (a) Before any contract made for or by any state agency, department,
5 board, officer, commission, or institution, except the office of general
6 services or its customer agencies serviced by the office of general
7 services business services center, shall be executed or become effec-
8 tive, whenever such contract exceeds fifty thousand dollars in amount
9 and before any contract made for or by the office of general services,
10 whether for itself or for its customer agencies serviced by the office
11 of general services business services center, shall be executed or
12 become effective, whenever such contract exceeds eighty-five thousand
13 dollars in amount, it shall first be approved by the comptroller and
14 filed in his or her office~~[, with the exception of contracts established~~
15 ~~as a centralized contract through the office of general services and~~
16 ~~purchase orders or other procurement transactions issued under such~~
17 ~~centralized contracts. The]. Provided, however, that the comptroller
18 shall make a final written determination with respect to approval of
19 such contract within ninety days of the submission of such contract to
20 his or her office unless the comptroller shall notify, in writing, the~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 state agency, department, board, officer, commission, or institution,
2 prior to the expiration of the ninety day period, and for good cause, of
3 the need for an extension of not more than fifteen days, or a reasonable
4 period of time agreed to by such state agency, department, board, offi-
5 cer, commission, or institution and provided, further, that such written
6 determination or extension shall be made part of the procurement record
7 pursuant to paragraph f of subdivision one of section one hundred
8 sixty-three of this chapter.

9 § 2. Subdivision 5 of section 355 of the education law is REPEALED and
10 a new subdivision 5 is added to read as follows:

11 5. Notwithstanding the provisions of subdivision two of section one
12 hundred twelve and sections one hundred fifteen, one hundred sixty-one,
13 and one hundred sixty-three of the state finance law and section three
14 of the New York state printing and public documents law or any other law
15 to the contrary, the state university trustees are authorized and
16 empowered to:

17 a. (i) purchase materials, proprietary electronic information
18 resources including but not limited to academic, professional, and
19 industry journals, reference handbooks and manuals, research tracking
20 tools, indexes and abstracts equipment and supplies, including computer
21 equipment and motor vehicles, where the amount for a single purchase
22 does not exceed fifty thousand dollars, (ii) execute contracts for
23 services and construction contracts to an amount not exceeding fifty
24 thousand dollars, and (iii) contract for printing to an amount not
25 exceeding fifty thousand dollars, without prior approval by any other
26 state officer or agency, but subject to rules and regulations of the
27 state comptroller not otherwise inconsistent with the provisions of this
28 section and in accordance with the guidelines promulgated by the state
29 university board of trustees after consultation with the state comp-
30 troller. In addition, the trustees, after consultation with the commis-
31 sioner of general services, are authorized to annually negotiate with
32 the state comptroller increases in the aforementioned dollar limits and
33 the exemption of any articles, categories of articles, services, or
34 commodities from these limits;

35 b. establish cash advance accounts for the purpose of purchasing mate-
36 rials, supplies, or services, for cash advances for travel expenses and
37 per diem allowances, or for advance payment of wages and salary. The
38 account may be used to purchase such materials, supplies, or services
39 where the amount of a single purchase does not exceed one thousand
40 dollars, in accordance with such guidelines as shall be prescribed by
41 the state university trustees after consultation with the state comp-
42 troller;

43 c. establish guidelines in consultation with the commissioner of
44 general services authorizing participation by the state university in
45 programs administered by the office of general services for the purchase
46 of available New York state food products. The commissioner of general
47 services shall provide assistance to the state university necessary to
48 enable the university to participate in these programs; and

49 d. award contract extensions for campus transportation without compet-
50 itive bidding where such contracts were secured either through compet-
51 itive bidding or through evaluation of proposals however such extensions
52 may be rejected if the amount to be paid to the contractor in any year
53 of such proposed extension fails to reflect any decrease in the regional
54 consumer price index for the New York, New York-Northeastern, New Jersey
55 area, based upon the consumer price index for all urban consumers
56 (CPI-U) during the preceding twelve-month period. At the time of any

1 contract extension, consideration shall be given to any competitive
2 proposal offered by a public transportation agency. Such contract may be
3 increased for each year of the contract extension by an amount not to
4 exceed the regional consumer price index increase for the New York, New
5 York-Northeastern, New Jersey area, based upon the consumer price index
6 for all urban consumers (CPI-U), during the preceding twelve-month peri-
7 od, provided it has been satisfactorily established by the contractor
8 that there has been at least an equivalent increase in the amount of his
9 cost of operation, during the period of the contract.

10 Guidelines promulgated by the state university board of trustees
11 shall, to the extent practicable, require that competitive proposals be
12 solicited for purchases, and shall include requirements that purchases
13 and contracts authorized under this section be at the lowest available
14 price, including consideration of prices available through other state
15 agencies, consistent with quality requirements, and as will best promote
16 the public interest. Such purchases may be made directly from any
17 contractor pursuant to any contract for commodities let by the office of
18 general services or any other state agency.

19 § 3. Subdivision 6 of section 355 of the education law is REPEALED and
20 a new subdivision 6 is added to read as follows:

21 6. To enter into any contract or agreement deemed necessary or advis-
22 able after consultation with appropriate state agencies for carrying out
23 the objects and purposes of the state university without prior review or
24 approval by any state officer or agency other than the state comptroller
25 and the attorney general including contracts with non-profit corpo-
26 rations organized by officers, employees, alumni or students of the
27 state university for the furtherance of its objects and purposes.
28 Contracts or agreements entered into with the federal government to
29 enable participation in federal student loan programs, including any and
30 all instruments required thereunder, shall not be subject to the
31 requirements of section forty-one of the state finance law; provided,
32 however, that the state shall not be liable for any portion of any
33 defaults which it has agreed to assume pursuant to any such agreement in
34 an amount in excess of money appropriated or otherwise lawfully avail-
35 able therefor at the time the liability for payment arises.

36 § 4. Paragraph b of subdivision 16 of section 355 of the education law
37 is REPEALED and a new paragraph b is added to read as follows:

38 b. (i) Notwithstanding the provisions of subdivision two of section
39 one hundred twelve of the state finance law relating to the dollar
40 threshold requiring the comptroller's approval of contracts and subdivi-
41 sion six of section one hundred sixty-three of the state finance law,
42 authorize contracts for the purchase of goods and services for state
43 university health care facilities:

44 (A) for any contract which does not exceed seventy-five thousand
45 dollars; or

46 (B) for joint or group purchasing arrangements which do not exceed
47 seventy-five thousand dollars without prior approval by any other state
48 officer or agency in accordance with procedures and requirements found
49 in paragraph a of subdivision five of this section.

50 (ii) contracts authorized hereunder shall be subject to article four-
51 teen of the civil service law and the applicable provisions of agree-
52 ments between the state and employee organizations pursuant to article
53 fourteen of the civil service law. The trustees are authorized to nego-
54 tiate annually with the state comptroller increases in the aforemen-
55 tioned dollar limits.

1 § 5. Subdivision 12 of section 373 of the education law is REPEALED
2 and a new subdivision 12 is added to read as follows:

3 12. To make and execute contracts, lease agreements, and all other
4 instruments necessary or convenient for the exercise of its corporate
5 powers and the fulfillment of its corporate purposes under this article;

6 § 6. Subdivision a of section 6218 of the education law is REPEALED
7 and a new subdivision a is added to read as follows:

8 a. Notwithstanding the provisions of subdivision two of section one
9 hundred twelve and sections one hundred fifteen, one hundred sixty-one
10 and one hundred sixty-three of the state finance law and section three
11 of the New York state printing and public documents law or any other law
12 to the contrary, the city university trustees are authorized and
13 empowered to:

14 (i) purchase materials; proprietary electronic information resources,
15 including, but not limited to, academic, professional and industry jour-
16 nals, reference handbooks and manuals, research tracking tools, indexes
17 and abstracts; and equipment and supplies, including computer equipment
18 and motor vehicles, where the amount for a single purchase does not
19 exceed fifty thousand dollars, (ii) execute contracts for services to an
20 amount not exceeding fifty thousand dollars, and (iii) contract for
21 printing to an amount not exceeding fifty thousand dollars, without
22 prior approval by any other state officer or agency, but subject to
23 rules and regulations of the state comptroller not otherwise inconsist-
24 ent with the provisions of this section and in accordance with the
25 guidelines promulgated by the city university board of trustees after
26 consultation with the state comptroller. In addition, the trustees are
27 authorized to annually negotiate with the state comptroller increases in
28 the aforementioned dollar limits and the exemption of any articles,
29 categories of articles, services, or commodities from these limits.
30 Guidelines promulgated by the city university board of trustees shall,
31 to the extent practicable, require that competitive proposals be solici-
32 ted for purchases, and shall include requirements that purchases and
33 contracts authorized under this section be at the lowest available
34 price.

35 § 7. Subdivision a-1 of section 6218 of the education law is REPEALED.

36 § 8. Section 6283 of the education law is REPEALED.

37 § 9. This act shall take effect immediately.