STATE OF NEW YORK

7925

2021-2022 Regular Sessions

IN ASSEMBLY

June 1, 2021

Introduced by M. of A. ZEBROWSKI -- read once and referred to the Committee on Governmental Operations

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:

Section 1. Paragraph (a) of subdivision 2 of section 112 of the state finance law, as amended by section 18 of part L of chapter 55 of the laws of 2012, is amended to read as follows:

(a) Before any contract made for or by any state agency, department, board, officer, commission, or institution, except the office of general services, shall be executed or become effective, whenever such contract exceeds fifty thousand dollars in amount and before any contract made for or by the office of general services shall be executed or become effective, whenever such contract exceeds eighty-five thousand dollars in amount, it shall first be approved by the comptroller and filed in his or her office[~~, with the exception of contracts established as a centralized contract through the office of general services and purchase orders or other procurement transactions issued under such centralized contracts. The~~]. Provided, however, that the comptroller shall make a final written determination with respect to approval of such contract within ninety days of the submission of such contract to his or her office unless the comptroller shall notify, in writing, the state agency, department, board, officer, commission, or institution, prior to the expiration of the ninety day period, and for good cause, of the need for an extension of not more than fifteen days, or a reasonable period of time agreed to by such state agency, department, board, officer, commission, or institution and provided, further, that such written determination or extension shall be made part of the procurement record pursu-

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

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ant to paragraph f of subdivision one of section one hundred sixty-three of this chapter.

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 Subdivision 5 of section 355 of the education law is REPEALED and a new subdivision 5 is added to read as follows:

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

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

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

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

d. award contract extensions for campus transportation without competitive bidding where such contracts were secured either through competitive bidding or through evaluation of proposals however such extensions may be rejected if the amount to be paid to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the New York, New York-Northeastern, New Jersey area, based upon the consumer price index for all urban consumers (CPI-U) during the preceding twelve-month period. At the time of any contract extension, consideration shall be given to any competitive proposal offered by a public transportation agency. Such contract may be increased for each year of the contract extension by an amount not to exceed the regional consumer price index increase for the New York, New York-Northeastern, New Jersey area, based upon the consumer price index for all urban consumers (CPI-U), during the preceding twelve-month peri-

od, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

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

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

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

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

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

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

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

(ii) contracts authorized hereunder shall be subject to article fourteen of the civil service law and the applicable provisions of agreements between the state and employee organizations pursuant to article fourteen of the civil service law. The trustees are authorized to negotiate annually with the state comptroller increases in the aforementioned dollar limits.

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

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

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

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

(i) purchase materials; proprietary electronic information resources, including, but not limited to, academic, professional and industry journals, reference handbooks and manuals, research tracking tools, indexes and abstracts; and equipment and supplies, including computer equipment and motor vehicles, where the amount for a single purchase does not exceed fifty thousand dollars, (ii) execute contracts for services to an amount not exceeding fifty thousand dollars, and (iii) contract for printing to an amount not exceeding fifty thousand dollars, without prior approval by any other state officer or agency, but subject to rules and regulations of the state comptroller not otherwise inconsistent with the provisions of this section and in accordance with the guidelines promulgated by the city university board of trustees after consultation with the state comptroller. In addition, the trustees are authorized to annually negotiate with the state comptroller increases in the aforementioned dollar limits and the exemption of any articles, categories of articles, services, or commodities from these limits. Guidelines promulgated by the city university board of trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest available price.

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

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

§ 9. This act shall take effect immediately.