

# STATE OF NEW YORK

5001

2025-2026 Regular Sessions

## IN ASSEMBLY

February 10, 2025

Introduced by M. of A. BRONSON, COLTON, LUNSFORD, REYES, SIMON, KELLES  
-- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to the cost effectiveness of consultant contracts by state agencies and ensuring the efficient and effective use of state tax dollars

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

1 Section 1. Section 163 of the state finance law is amended by adding  
2 a new subdivision 16 to read as follows:

3 16. Consultant services. a. Before a state agency enters into a  
4 contract for consultant services which is anticipated to cost more than  
5 one million dollars in a twelve month period the state agency shall  
6 conduct a cost comparison review to determine whether the services to be  
7 provided by the consultant can be performed at equal or lower cost by  
8 utilizing state employees, unless the contract meets one of the  
9 exceptions set forth in paragraph g of this subdivision. As used in this  
10 section, the term "consultant services" shall mean any contract entered  
11 into by a state agency for analysis, evaluation, research, training,  
12 data processing, computer programming, the design, development and  
13 implementation of technology, communications or telecommunications  
14 systems or the infrastructure pertaining thereto, including hardware and  
15 software, engineering including inspection and professional design  
16 services, health services, mental health services, accounting, auditing,  
17 or similar services and such services that are substantially similar to  
18 and in lieu of services provided, in whole or in part, by state employ-  
19 ees, but shall not include legal services or services in connection with  
20 litigation including expert witnesses and shall not include contracts  
21 for construction of public works. For purposes of this subdivision, the  
22 costs of performing the services by state employees shall include any  
23 salary, pension costs, all other benefit costs, costs that are required  
24 for equipment, facilities and all other overhead. The costs of consult-

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

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1 ant services shall include the total cost of the contract including  
2 costs that are required for equipment, facilities and all other overhead  
3 and any continuing state costs directly associated with a contractor  
4 providing a contracted function including, but not limited to, those  
5 costs for inspection, supervision, monitoring of the contractor's work  
6 and any pro rata share of existing costs or expenses, including adminis-  
7 trative salaries and benefits, rent, equipment costs, utilities and  
8 materials. The cost comparison shall be expressed where feasible as an  
9 hourly rate, or where such a calculation is not feasible, as a total  
10 estimated cost for the anticipated term of the contract.

11 b. Prior to entering any consultation services contract for the priva-  
12 tization of a state service that is not currently privatized, the state  
13 agency shall develop a cost comparison review in accordance with the  
14 provisions of paragraph a of this subdivision.

15 c. (i) If such cost comparison review identifies a cost savings to the  
16 state of ten percent or more, and such consultant services contract will  
17 not diminish the quality of such service, the state agency shall develop  
18 a business plan, in accordance with the provisions of paragraph d of  
19 this subdivision, in order to evaluate the feasibility of entering any  
20 such contract and to identify the potential results, effectiveness and  
21 efficiency of such contract.

22 (ii) If such cost comparison review identifies a cost savings of less  
23 than ten percent to the state and such consultant services contract will  
24 not diminish the quality of such service, the state agency may develop a  
25 business plan, in order to evaluate the feasibility of entering any such  
26 contract and to identify the potential results, effectiveness and effi-  
27 ciency of such contract, provided there is a significant public policy  
28 reason to enter into such consultant services contract.

29 (iii) If any such proposed consultant services contract would result  
30 in the layoff, transfer or reassignment of fifty or more state agency  
31 employees, after consulting with the potentially affected bargaining  
32 units, if any, the state agency shall notify the state employees of such  
33 bargaining unit, after such cost comparison review is completed. Such  
34 state agency shall provide an opportunity for said employees to reduce  
35 the costs of conducting the operations to be privatized and provide  
36 reasonable resources for the purpose of encouraging and assisting such  
37 state employees to organize and submit a bid to provide the services  
38 that are the subject of the potential consultant services contract.

39 d. Any business plan developed by a state agency for the purpose of  
40 complying with paragraph c of this subdivision shall include: (i) the  
41 cost comparison review as described in paragraph b of this subdivision,  
42 (ii) a detailed description of the service or activity that is the  
43 subject of such business plan, (iii) a description and analysis of the  
44 state agency's current performance of such service or activity, (iv) the  
45 goals to be achieved through the proposed consultant services contract  
46 and the rationale for such goals, (v) a description of available options  
47 for achieving such goals, (vi) an analysis of the advantages and disad-  
48 vantages of each option, including, at a minimum, potential performance  
49 improvements and risks attendant to termination of the contract or  
50 rescission of such contract, (vii) a description of the current market  
51 for the services or activities that are the subject of such business  
52 plan, (viii) an analysis of the quality of services as gauged by stand-  
53 ardized measures and key performance requirements including compen-  
54 sation, turnover, and staffing ratios, (ix) a description of the specif-  
55 ic results based performance standards that shall, at a minimum be met,  
56 to ensure adequate performance by any party performing such service or

1 activity, (x) the projected time frame for key events from the beginning  
2 of the procurement process through the expiration of a contract, if  
3 applicable, (xi) a specific and feasible contingency plan that addresses  
4 contractor nonperformance and a description of the tasks involved in and  
5 costs required for implementation of such plan, and (xii) a transition  
6 plan, if appropriate, for addressing changes in the number of agency  
7 personnel, affected business processes, employee transition issues, and  
8 communications with affected stakeholders, such as agency clients and  
9 members of the public, if applicable. Such transition plan shall contain  
10 a reemployment and retraining assistance plan for employees who are not  
11 retained by the state or employed by the contractor. If any part of such  
12 business plan is based upon evidence that the state agency is not suffi-  
13 ciently staffed to provide the services required by the consultant  
14 services contract, the state agency shall also include within such busi-  
15 ness plan a recommendation for remediation of the understaffing to allow  
16 such services to be provided directly by the state agency in the future.

17 e. Upon the completion of such business plan, the state agency shall  
18 submit the business plan to the state comptroller.

19 f. (i) Not later than sixty days after receipt of any business plan,  
20 the state comptroller shall transmit a report detailing its review,  
21 evaluation and disposition regarding such business plan to the state  
22 agency that submitted such cost comparison review. Such sixty-day period  
23 may be extended for an additional thirty days upon a showing of good  
24 cause.

25 (ii) The state comptroller's report shall include the business plan  
26 prepared by the state agency, the reasons for approval or disapproval,  
27 any recommendations or other information to assist the state agency in  
28 determining if additional steps are necessary to move forward with a  
29 consultant services contract.

30 (iii) If the state comptroller does not act on a business plan submit-  
31 ted by a state agency within ninety days of receipt of such business  
32 plan, such business plan shall be deemed approved.

33 g. A cost comparison shall not be required if the contracting agency  
34 demonstrates:

35 (i) the services are incidental to the purchase of real or personal  
36 property; or

37 (ii) the contract is necessary in order to avoid a conflict of inter-  
38 est on the part of the agency or its employees; or

39 (iii) the services are of such a highly specialized nature that it is  
40 not feasible to utilize state employees to perform them or require  
41 special equipment that is not feasible for the state to purchase or  
42 lease; or

43 (iv) the services are of such an urgent nature that it is not feasible  
44 to utilize state employees; or

45 (v) the services are anticipated to be short term and are not likely  
46 to be extended or repeated after the contract is completed; or

47 (vi) a quantifiable improvement in services that cannot be reasonably  
48 duplicated.

49 h. Nothing in this section shall be deemed to authorize a state agency  
50 to enter into a contract which is otherwise prohibited by law.

51 i. All documents related to the cost comparison and business plan  
52 required by this subdivision and the determinations made pursuant to  
53 paragraph g of this subdivision shall be public records subject to  
54 disclosure pursuant to article six of the public officers law.

55 § 2. On or before December 31, 2027 the state comptroller shall  
56 prepare a report, to be delivered to the governor, the temporary presi-

1 dent of the senate and the speaker of the assembly. Such report shall  
2 include, but need not be limited to, an analysis of the effectiveness of  
3 the cost comparison review program and an analysis of the cost savings  
4 associated with performing such cost comparison.

5 § 3. This act shall take effect on the ninetieth day after it shall  
6 have become a law and shall apply to all contracts solicited or entered  
7 into by state agencies after the effective date of this act; provided,  
8 however, the amendments to section 163 of the state finance law made by  
9 section one of this act shall not affect the repeal of such section and  
10 shall be deemed repealed therewith.