



Memorandum of Support A.6355-2017 (Peoples-Stokes)/ S.3984-2017 (DeFrancisco)

Introduced at the request of the New York State Comptroller

The New York State Procurement Integrity Act

Title

An act to amend the state finance law and the education law, in relation to enacting the "New York State Procurement Integrity Act."

Summary

The purpose of this legislation is to enhance the integrity, transparency and accountability of the State's procurement process by:

- Restores the State Comptroller's independent oversight of SUNY, CUNY, and OGS centralized contracts that was removed in 2011 and 2012.
- Authorizes the State Comptroller to approve contracts in excess of one million dollars awarded by the SUNY Research Foundation.
- Prohibits state contracting through state-affiliated not-for-profit (NFP) entities unless explicitly authorized in law.
- Strengthens ethical requirements for state procurement officials and vendors and imposing penalties if these ethical requirements are violated.
- Standardizes the contracting process used for all State authorities spending State money by applying uniform procurement rules.
- Increases procurement transparency for vendors and the public at each stage of the process.

Please see the bill memo for a complete summary of the bill's provisions.

Statement of Support

New York State government has been plagued by seemingly unending incidents of wrongdoing and unethical behavior. Recent indictments by the U.S. Attorney in a

\$800m bid rigging scandal have highlighted a high level of corruption risk in the state's procurement process. This bill seeks to restore needed scrutiny and add other important protections which will ensure the integrity of the procurement process and protect taxpayer dollars.

This legislation will empower the state comptroller to approve SUNY and CUNY contracts above certain dollar thresholds before they are bid, including contracts of SUNY and CUNY Construction Funds, SUNY health care facilities and the SUNY Research Foundation. SUNY/CUNY contracts in the areas of construction, construction-related services like engineering and architecture, materials, and printing will be newly subject to prior approval. Contracting by third party vehicles affiliated with public authorities will be banned altogether.

The bill seeks to standardize cost-effective and fair procurement practices, requiring public authorities, public corporations, and SUNY and CUNY, to establish guidelines that mirror those of state agencies such as competitive bidding, awarding contracts to the lowest priced responsible bidder, and marketing practices that create the most competitive marketplace. The legislation also strengthens the public notice requirements for procurement by state agencies, requiring for example that single and sole source procurements be made known in advance, both in semi-annual procurement reports issued by agencies and in the Contract Reporter 15 business days in advance of the agency seeking an exemption from competitive bidding from the comptroller. This will enable companies offering unique services to come forth and compete for government business to the benefit of the taxpayer.

Additional measures in the legislation establish greater integrity in state procurement transactions between vendors and government officials, employees and board members at state agencies and public authorities. Both vendors and government representatives must follow a code of conduct prohibiting conflicts of interest or favoritism, requiring written recusals when conflicts do exist, reporting of any undue influence or fraud, and certifying a clean contracting process. Failure to do so can result in hefty fines, termination of a corrupted contract, and penalties including up to a lifetime ban on vendors contracting with the state. Both state government representatives and vendors have due process protections against any allegation.

Taken together, these many reforms will help to restore public confidence in the contracting process following recent scandals. We strongly support A.6355/S.3984, and urge its immediate passage.