

S.6789 Reinvent Albany

Memorandum in Opposition

S. 6789 (Klein)

Creates a Chief Procurement Officer

Title

An act to amend the executive law, in relation to establishing the office of chief procurement officer, and providing for his or her powers and duties.

Summary

This proposal establishes a chief procurement officer chosen by the governor with the advice and consent of the senate, and removal for cause by the governor. The chief procurement officer is charged with oversight of all procurements undertaken by state agencies and authorities, or state affiliated not-for-profit organizations. The chief procurement officer can review any contract paid for by state funding for suspicion of allegations of favoritism, corruption, fraud, criminal activity, conflicts of interest or abuse, and any communications related thereto. The chief procurement officer reports its findings to the state's inspector general office. Before making a report to the inspector general, the chief procurement officer must report initial allegations or suspicions to the office of general services and the state entity issuing the contract, and keep the entity abreast of the status of investigations, unless confidentiality dictates otherwise. The chief procurement officer may make recommendations regarding contracting policies and procedures to prevent favoritism, corruption, fraud, criminal activity, and conflicts of interest or abuse.

Statement of Opposition

This proposal largely mirrors a proposal advanced by Governor Cuomo in the budget, and Reinvent Albany opposes it.

The establishment of a chief procurement officer duplicates and impedes the independently elected state comptroller's duties and responsibilities to review contracts, as laid out in the state constitution and subsequent legislation dating back a century. The comptroller already reviews most large contracts of state agencies and authorities before they are executed.

The state legislature and governor in 2011 and 2012 wrongly repealed the comptroller's

pre-audit review authority for Office of General Services' centralized contracts, and SUNY and CUNY construction, construction-services, printing and materials contracts. Eliminating the independent oversight and enforcement of state procurement and competitive bidding requirements had a predictable result. Last year, it was revealed \$800 million in contracts were allegedly rigged by executive branch officials to favor certain companies. State officials allegedly tailored the scope of particular contracts to favored companies and restricted the advertising of bids. Rules required of state agencies specifically designed to stop bid rigging and a non-competitive process did not apply to entities involved in issuing the contracts that were the subject of the scandal. Under the contracting regime for state agencies, the comptroller reviews contracts for favoritism before contracts are executed and advertising is required in the state's procurement opportunities newsletter, also known as the New York State Contract Reporter.

Albany has been plagued in recent years by the creation of poorly designed oversight entities that lack the requisite independence from the very institutions and individuals they oversee; this proposal represents a continuation of the Capitol's preference for self-policing. The results are minimal and selective enforcement and a failure to reduce corruption risk.

Reinvent Albany opposes S.6789.