



March 22, 2021

VIA EMAIL

Senate Majority Leader Andrew Stewart-Cousins Assembly Speaker Carl Heastie

Re: In the final state budget, please jointly make the changes requested by the Comptroller regarding procurement oversight and competitive bidding

Dear Majority Leader Stewart-Cousins and Speaker Heastie,

Our groups write to ask you to make the changes requested by the Office of the State Comptroller (OSC) regarding contract oversight, competitive bidding, procurement safeguards, and other issues in the final budget enacted for fiscal year 2022.

As watchdog organizations, we are particularly concerned about the Governor's attempt via the executive budget to rollback recently reinstated oversight of SUNY and CUNY contracts. In 2019, the State Comptroller and the Governor entered into a Memorandum of Understanding (MOU) that brought back OSC's ability to review (pre-audit) contracts for SUNY and CUNY. Watchdog groups supported this MOU¹ as a means to reduce corruption risk in the wake of the \$1 billion bid-rigging scandal involving upstate development projects. The Legislature must make sure that this important oversight authority is retained, if not expanded.

Additionally, the safeguards in sections 112 and 163 of the State Finance Law which the executive budget proposes to eliminate for a number of programs were enacted by the Legislature to ensure that the State Comptroller can review contracts, and contracts are bid competitively. Together, these protections are a check on the Executive to make sure taxpayer dollars are used wisely, preventing the waste of public funds. As stated in the Comptroller's memo, OSC review of contracts on average is reasonable and quick, at 6 days for "critical contracts" like the ones that the Governor is seeking an exemption for. It is far better for the state to wait 6 days than for public dollars to be wasted, which could result in fewer services being provided.

¹ Reinvent Albany. Statement on Restoration of Comptroller's Pre-Audit Authority. August 16, 2019. <https://reinventalbany.org/2019/08/ra-statement-on-comptroller-governor-mou-restoring-comptrollers-pre-audit-authority/>

We recognize that the Assembly and Senate have addressed some of these items in your one house budget proposals; however, a number of the Comptroller's concerns have not been addressed jointly by both houses. A summary of the Comptroller's requests and action in your houses is below. We ask that you ensure final enacted budget removes or amends the following items of concern:

Original Budget Legislation and location	Program/ Issue	Summary of OSC Concern	Assembly Action	Senate Action
State Operations Page 663, lines 5-14	Special Emergency Appropriation	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163, and competitive bidding requirements.	Language removed (A3000B, page 759)	Language unchanged (S2500B, page 766)
State Operations Page 666, lines 5-24	Special Public Health Emergency Appropriation	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163, and competitive bidding requirements.	Language removed (A3000B, page 762)	Language unchanged, but appropriation reduced from \$6B to \$2B. (S2500B, page 769)
Aid to Localities Page 2, lines 17-20	Prompt Payment and Contracting – Suspension of Interest	Eliminates requirements for prompt payment and payment of interest for state funding delays for critical nonprofits and other service providers.	Language removed, along with Governor FY22 budget withholding powers (A3003A, page 2)	Language removed, along with Governor FY22 budget withholding powers (S2503A, page 2)
Aid to Localities Page 159-160, line 2	SED – Emergency Assistance to Nonpublic Schools Program	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163, and competitive bidding requirements.	Language unchanged (A3003A, page 203)	Language unchanged (S2503A, page 210)
Aid to Localities Page 509, lines 40-41	DOH – Health Care Reform Act Program (Emergency Assistance Distributions)	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163.	Language unchanged (A3003A, page 722)	Language unchanged (S2503A, page 664)
Aid to Localities Page 691, lines 34-45	OASAS – Jail-based substance use disorder treatment and transition services	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163, and competitive bidding requirements.	Language unchanged (A3003A, page 878)	Language unchanged (S2503A, page 922)

Original Budget Legislation and location	Program/ Issue	Summary of OSC Concern	Assembly Action	Senate Action
Aid to Localities Page 693, lines 27-41	OASAS – prevention, treatment, recovery, and other opioid-related programming and activities	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163, and competitive bidding requirements.	Language unchanged (A3003A, page 880)	Language unchanged (S2503A, page 933)
Aid to Localities Page 699, lines 43-52	OASAS – Treatment, recovery, and prevention of heroin and opiate use and addiction	Eliminates OSC review of contracts under State Finance Law Sections 112 and 163, and competitive bidding requirements.	Language unchanged (A3003A, page 889)	Language unchanged (S2503A, page 993)
Education, Labor and Family Assistance Pages 48, line 49-51, and 49, Lines 1-11.	SUNY/CUNY Contract Oversight	Overrides 2019 MOU between Comptroller and Governor restoring SUNY/CUNY contract oversight	Language unchanged (A3006B, Page 30)	Language unchanged (S2506B, Page 43)
Education, Labor and Family Assistance Page 49, Lines 17-23	SUNY Consortium Service Purchases	Consortium purchasing could limit competition and opportunities for MWBEs, and would not require best value purchasing	Language removed (A3006B, Page 30)	Language unchanged (S2506B, Page 43)
Public Protection and General Government , Page 70-71 (Part FF)	Comprehensive Technology Service Contracts	Eliminates State Finance Law Section 163 requirements, which help ensure contracts are awarded fairly and to responsible vendors.	Language removed (A3005B, Page 13)	Language removed (S2505B, Page 22)
Capital Projects , Page 846, Lines 1-56	Economic Development	Reappropriations are consolidated, and would not be trackable in State Financial System reporting. Possibly not legally permissible.	Language removed (A3004B)	Language removed (S2504B)

Thank you for your consideration of this matter. Should you have any questions, please contact Rachael Fauss, Senior Research Analyst, Reinvent Albany, rachael@reinventalbany.org.

Sincerely,

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Cc. Senator Liz Krueger, Chair, Finance Committee
Assemblymember Helene Weinstein, Chair, Ways and Means Committee