

MEMORANDUM

RE

AN ACT

to amend the public authorities law in relation to oversight of public authority contracts

PURPOSE:

To increase accountability, deter misconduct and reduce waste and inefficiency at public authorities by providing for scrutiny of contracts by the State Comptroller.

SUMMARY OF PROVISIONS:

Section 1 adds a new subdivision 8 to section 2824 of the Public Authorities Law authorizing every State authority to establish a procurement policy committee, consisting of at least three independent members, to issue rules or guidelines for oversight of all contracts in accordance with rules or guidelines adopted pursuant to section 2879 of the PAL.

Section 2 amends section 2879 of the Public Authorities Law to strengthen the existing requirement that public authorities establish and enforce procurement guidelines. All contracts for goods, services and construction, and revenue contracts will be subject to the mandatory guidelines. State authorities must adopt guidelines that are, at a minimum, equal to the statutory procurement requirements applicable to State contracts. Each state authority must designate a contracting officer who shall be responsible for the authority's compliance with, and enforcement of, the guidelines. Any State authority contracts designated by the Comptroller for pre-audit review will not be valid and enforceable unless and until such contracts are reviewed and approved by the Comptroller.

The proposed amendments to section 2879 also require State authority contracts to be awarded on a competitive basis and permit exceptions only in the limited circumstances that would be permissible for State contracts and only when approved by a two-thirds majority of the governing body of the public authority. Subdivision 8 of section 2879 is amended to provide a deadline for State authorities to file their annual procurement reports not later than 90 days after the close of their fiscal years.

Section 3 amends subdivisions 1, 5, and 12 of section 2880 of the Public Authorities Law to conform the term "corporation" to the newly established definition of "state authority" in

Public Authorities Law section 2 and to provide for transparency and public access to Prompt Payment policies established by public authorities.

Section 4 adds a new Public Authorities Law section 2898 to provide for approval of any contract of sale of property made by or for any state authority to be subject to review and prior approval by the comptroller.

Section 5 provides for an immediate effective date.

JUSTIFICATION:

This bill would provide for additional oversight of the billions of dollars worth of contracts entered into by public authorities annually. A review of procurement reports submitted to the Office of the State Comptroller (OSC) by 44 public authorities indicates that for the most recently completed fiscal year, these entities entered into more than 10,000 contracts valued at \$5.5 billion. Under current law, most authority boards are required to develop procurement guidelines, such as requiring competition for contracts above a certain dollar value or board approval of multi-year commitments. Audits conducted by OSC staff indicate that, too often, these guidelines are ignored.

This legislation subjects State authority contracts to pre-audit by the State Comptroller when additional oversight is necessary. As with State agencies, OSC oversight would ensure that State authority contracts are awarded fairly and that contract terms are reasonable and in the best interests of the authority and the public.

This bill safeguards against abuse of authority in contracting for services, construction or the sale of assets by providing more transparency and more oversight of the procurement process of State authorities. The Office of the State Comptroller strongly urges passage of this legislation.