

THOMAS P. DiNAPOLI
STATE COMPTROLLER



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

DIVISION OF LEGAL SERVICES
110 State Street – 14th Floor
Albany, NY 12236
Tel: (518) 474-3444
Fax: (518) 473-9104

**Memorandum in Support of S.6809-A (Reichlin-Melnick) /A.7925-A
(Zebrowski)**

The Office of the State Comptroller (OSC) strongly supports the enactment of S.6809-A/A.7925-A, which would statutorily restore OSC's pre-audit review and approval of certain contracts.

Senator Reichlin-Melnick and Assemblyman Zebrowski have introduced legislation (S.6809-A/A.7925-A) that would statutorily restore the Comptroller's contract review authority of certain contracts that was taken away commencing in 2011 and 2012. This legislation amends the State Finance Law at section 112 by restoring OSC's authority to review OGS centralized contracts exceeding \$85,000, as well as purchase orders, and other procurement transactions issued under centralized contracts. Also, this legislation amends the Education Law sections 355, 373, 6218, and 6283 as they relate to certain contracts for SUNY, SUNY as a healthcare provider, SUNY Construction fund, CUNY, and CUNY Construction Fund.

Providing independent review and oversight of State entity and State authority contracts is a core function of OSC. OSC oversight promotes transparency, enhances accountability, and protects taxpayers, agencies, not-for-profit organizations, and vendors contracting with the State by validating that a contract's costs are reasonable, its terms are favorable to the State, and a level playing field existed for all bidders. OSC's independent review serves as a critical deterrent to fraud, waste, and abuse in public contracting.

Each year OSC reviews tens of thousands of contracts valued in the hundreds of billions of dollars. OSC's contract review process is not only an integral safeguard but also efficient. In 2021, the average OSC review time for all contracts was less than a week. Often, if additional time is required, it is because further examination is warranted to protect the taxpayers.

Over the last decade, OSC's contract oversight authority has been eroded through Executive and Legislative actions. For example, the SFY 2011-12 Enacted Budget included provisions to exclude certain contracts of the State University of New York (SUNY), SUNY Construction Fund, the City University of New York (CUNY) and CUNY Construction Fund from OSC review and approval. The SFY 2012-13 Enacted Budget excluded centralized contracts let by the Office of General Services (OGS) from such oversight. In subsequent years, a number of additional imprudent exemptions from OSC pre-audit review and contract approval were effectuated, often through annual budget language. Unfortunately, this trend continued; the SFY 2022-23 Enacted Budget exempted OSC review and approval of appropriations, totaling over \$11 billion. Notably, this amount does not include various new provisions contained in Article VII bills that also exempt OSC review and contract approval related to various programs.

In 2019, to administratively restore some of OSC's authority, the Executive, the Comptroller, SUNY, CUNY, and the SUNY and CUNY Construction Funds executed a memorandum of understanding (MOU), which provided for the Comptroller's contract oversight of certain contracts previously exempted from review. However, this restoration of OSC authority, which was previously in statute, does not have the force of law and may be terminated upon ten days' written notice. While this MOU was a step toward restoring important taxpayer protections, contract oversight provisions should again be embodied in law to reinforce those protections, and this legislation is an opportunity to do so.

There is immeasurable value in the restoration of OSC's oversight as OSC contract review is critical to help reduce costs, deter fraud, waste, and abuse, ensure good value to the State, and ensure vendors are responsible and eligible for government contracting.

For all these reasons, OSC strongly supports this legislation.