

ASSEMBLY, No. 1772

STATE OF NEW JERSEY

INTRODUCED MARCH 25, 1996

By Assemblyman BATEMAN

1 AN ACT concerning the awarding of certain public contracts and
2 amending various parts of the statutory law.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. N.J.S.18A:18A-3 is amended to read as follows:

8 18A:18A-3. Purchases, contracts and agreements not requiring
9 advertising. a. Any purchase, contract or agreement for the
10 performance of any work or the furnishing or hiring of materials or
11 supplies, the cost or price of which, together with any other sums
12 expended or foreseeably to be expended for the performance of any
13 work or services in connection with the same project or the furnishing
14 of similar materials or supplies during the same fiscal year paid with or
15 out of school funds, does not exceed the total sum of **[\$7,500.00]**
16 \$25,000. or the amount determined pursuant to subsection b. of this
17 section, in the fiscal year or, in the case of purchases that are not
18 annually recurring, in a period of one year may be made, negotiated
19 and awarded by a contracting agent when so authorized by resolution
20 of the board of education without public advertising for bids and
21 bidding therefor.

22 b. Commencing January 1, **[1983] 1997** and every two years
23 thereafter, the Governor, in consultation with the Department of
24 Treasury, shall adjust the threshold amount set forth in subsection a.
25 of this section in direct proportion to the rise or fall of the consumer
26 price index for all urban consumers in the New York City and the
27 Philadelphia areas as reported by the United States Department of
28 Labor. The Governor shall notify all local school districts of the
29 adjustment. The adjustment shall become effective on July 1 of the
30 year in which it is reported.

31 (cf: P.L.1983, c.171, s.1)

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33 2. Section 3 of P.L.1986, c.43 (C.18A:64-54) is amended to read
34 as follows:

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. a. Any purchase, contract or agreement for the performance of
2 any work or the furnishing or hiring of materials or supplies, the cost
3 or price of which, together with any sums expended for the
4 performance of any work or services in connection with the same
5 project or the furnishing of similar materials or supplies during the
6 same fiscal year, paid with or out of college funds, does not exceed the
7 total sum of ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~
8 1997, the amount determined pursuant to subsection b. of this section,
9 in any fiscal year may be made, negotiated and awarded by a
10 contracting agent, when so authorized by resolution of the board of
11 trustees of the State college without public advertising for bids and
12 bidding therefor.

13 b. Commencing January 1, ~~[1985]~~ 1997 and every two years
14 thereafter, the Governor, in consultation with the Department of the
15 Treasury, shall adjust the threshold amount set forth in subsection a.
16 of this section in direct proportion to the rise or fall of the Consumer
17 Price Index for all urban consumers in the New York and Northeastern
18 New Jersey and the Philadelphia areas, as reported by the United
19 States Department of Labor. The adjustment shall become effective
20 on July 1 of the year in which it is reported.

21 c. Any purchase, contract or agreement made pursuant to this
22 section may be awarded for a period of 12 consecutive months,
23 notwithstanding that the 12-month period does not coincide with the
24 fiscal year.

25 (cf: P.L.1994, c.48, s.110)

26

27 3. Section 3 of P.L.1982, c.189 (C.18A:64A-25.3) is amended to
28 read as follows:

29 3. a. Any purchase, contract or agreement for the performance of
30 any work or the furnishing or hiring of materials or supplies, the cost
31 or price of which, together with any sums expended for the
32 performance of any work or services in connection with the same
33 project or the furnishing of similar materials or supplies during the
34 same fiscal year, paid with or out of college funds, does not exceed the
35 total sum of ~~[\$7,500.00]~~ \$25,000 or, commencing January 1, ~~[1985]~~
36 1997, the amount determined pursuant to subsection b. of this section
37 in any fiscal year may be made, negotiated and awarded by a
38 contracting agent, when so authorized by resolution of the board of
39 trustees of the county college, without public advertising for bids and
40 bidding therefor.

41 b. Commencing January 1, ~~[1985]~~ 1997 and every two years
42 thereafter, the Governor, in consultation with the Department of the
43 Treasury, shall adjust the threshold amount set forth in subsection a.
44 of this section in direct proportion to the rise or fall of the Consumer
45 Price Index for all urban consumers in the New York and Northeastern
46 New Jersey and the Philadelphia areas as reported by the United States

1 Department of Labor. The adjustment shall become effective on July
2 1 of the year in which it is reported.

3 c. Any purchase, contract or agreement made pursuant to this
4 section may be awarded for a period of 12 consecutive months,
5 notwithstanding that such 12-month period does not coincide with the
6 fiscal year.

7 (cf: P.L.1994, c.48, s.141)

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9 4. Section 3 of P.L.1971, c.198 (C.40A:11-3) is amended to read
10 as follows:

11 3. a. Any purchase, contract or agreement for the performance of
12 any work or the furnishing or hiring of materials or supplies, the cost
13 or price of which, together with any other sums expended or to be
14 expended for the performance of any work or services in connection
15 with the same immediate program, undertaking, activity or project or
16 the furnishing of similar materials or supplies during the same fiscal
17 year paid with or out of public funds, does not exceed in the fiscal year
18 the total sum of ~~[\$7,500.00]~~ \$25,000. or the amount determined
19 pursuant to subsection b. of this section, may be made, negotiated or
20 awarded by a contracting agent when so authorized by resolution of
21 the governing body of the contracting unit without public advertising
22 for bids. Such authorization may be granted for each purchase,
23 contract or agreement or by a general delegation of the power to
24 make, negotiate or award such purchases, contracts or agreements
25 pursuant to this section.

26 Any purchase, contract or agreement made pursuant to this section
27 may be awarded for a period of 12 consecutive months
28 notwithstanding that such 12-month period does not coincide with the
29 fiscal year. The Division of Local Government Services shall adopt
30 and promulgate rules and regulations concerning the methods of
31 accounting for all contracts that do not coincide with the fiscal year.

32 b. ~~[The] Commencing January 1, 1997 and every two years~~
33 ~~thereafter, the~~ Governor, in consultation with the Department of the
34 Treasury, shall~~], no later than March 1 of each odd-numbered year,]~~
35 adjust the threshold amount set forth in subsection a. of this section~~],~~
36 or subsequent to 1985 the threshold amount resulting from any
37 adjustment under this subsection or section 17 of P.L.1985, c.469,~~]~~ in
38 direct proportion to the rise or fall of the Consumer Price Index for all
39 urban consumers in the New York City and the Philadelphia areas as
40 reported by the United States Department of Labor. The Governor
41 shall, no later than June 1 of each odd-numbered year, notify each
42 governing body of the adjustment. The adjustment shall become
43 effective on July 1 of each odd-numbered year.

44 (cf: P.L.1991, c.143, s1)

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46 5. Section 2 of P.L.1954, c.48 (C.52:34-7) is amended to read as

1 follows:

2 2. a. Any such purchase, contract or agreement may be made,
3 negotiated, or awarded by the Director of the Division of Purchase and
4 Property or the Director of the Division of Building and Construction,
5 as the case may be, without advertising, in any manner which he may
6 deem effective to promote full and free competition whenever
7 competition is practicable, if: (1) the aggregate amount involved does
8 not exceed ~~[\$7,500.00]~~ \$25,000. or the amount determined pursuant
9 to subsection b. of this section; or (2) (Deleted by amendment, P.L.
10 1985, c. 107) or (3) the aggregate amount involved including labor
11 and construction materials does not exceed \$25,000.00 or the amount
12 determined pursuant to subsection b. of this section in the case of
13 contracts or agreements for the erection, construction, alteration, or
14 repair of any public building or facility.

15 When the aggregate amount involved does not exceed \$25,000.00
16 or the amount determined pursuant to subsection b. of this section in
17 the case of contracts or agreements for the erection, construction,
18 alteration, or repair of any public building or facility, the Director of
19 the Division of Building and Construction may, at his discretion,
20 delegate to the appropriate State department or using agency his
21 authority to make, negotiate, or award a contract or agreement
22 without advertising.

23 The Administrator of the General Services Administration shall
24 establish, in accordance with the "Administrative Procedure Act" (P.L.
25 1968, c. 410; C. 52:14B-1 et seq.), rules and regulations concerning
26 procedural requirements for the making, negotiating or awarding of
27 purchases, contracts or agreements pursuant to this section.

28 b. ~~[The] Commencing January 1, 1997 and every two years~~
29 ~~thereafter, the~~ Governor, in consultation with the Department of the
30 Treasury, shall~~], no later than March 1 of each odd-numbered year,]~~
31 adjust the threshold amount set forth in subsection a. of this section~~],~~
32 or subsequent to 1985 the threshold amount resulting from any
33 adjustment under this subsection,~~]~~ in direct proportion to the rise or
34 fall of the Consumer Price Index for all urban consumers in the New
35 York City and the Philadelphia areas as reported by the United States
36 Department of Labor. The Governor shall, no later than June 1 of
37 each odd-numbered year, notify the Director of the Division of
38 Purchase and Property and the Director of the Division of Building
39 and Construction of the adjustment. The adjustment shall become
40 effective on July 1 of each odd-numbered year.

41 (cf: P.L.1985, c.349, s.1)

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43 6. Section 11 of P.L.1981, c.120 (C.52:18A-78.11) is amended to
44 read as follows:

45 11. a. The authority, in the exercise of its authority to make and
46 enter into contracts and agreements necessary or incidental to the

1 performance of its duties and the execution of its powers, shall adopt
2 standing rules and procedures providing that no contract on behalf of
3 the authority shall be entered into for the doing of any work, or for the
4 hiring of equipment or vehicles, where the sum to be expended
5 exceeds the sum of ~~[\$7,500.00]~~ \$25,000. unless the authority shall
6 first publicly advertise for bids therefor, and shall award the contract
7 to the lowest responsible bidder. Advertising shall not be required
8 where the contract to be entered into is one for the furnishing or
9 performing of services of a professional nature or for the supplying of
10 any product or the rendering of any service by a public utility subject
11 to the jurisdiction of the Board of Public Utilities and tariffs and
12 schedules of the charges made, charged, or exacted by the public
13 utility for any products to be supplied or services to be rendered are
14 filed with the board. This section shall not prevent the authority from
15 having any work done by its own employees, nor shall it apply to
16 repairs, or to the furnishing of materials, supplies or labor, or the
17 hiring of equipment or vehicles, when the safety or protection of its or
18 other public property or the public convenience requires, or the
19 exigency of the accomplishment of the projects will not allow
20 advertisement. In that case, the board of directors of the authority
21 shall, by resolution, declare the exigency or emergency to exist, and
22 set forth in the resolution the nature thereof and the approximate
23 amount to be so expended.

24 b. In undertaking any project where the cost of construction,
25 reconstruction, rehabilitation or improvement will exceed \$25,000.00,
26 the authority shall be subject to the rules and regulations of the
27 Division of Building and Construction concerning procedural
28 requirements for the making, negotiating or awarding of purchases,
29 contracts or agreements; and the authority, with the assistance of the
30 division, shall prepare, or cause to be prepared, separate plans and
31 specifications for:

32 (1) The plumbing and gas fitting and all work and materials kindred
33 thereto,

34 (2) The steam and hot water heating and ventilating apparatus,
35 steam power plants and all work and materials kindred thereto,

36 (3) The electrical work,

37 (4) Structural steel and ornamental iron work and materials, and

38 (5) All other work and materials required to complete the building;

39 and the authority shall receive (a) separate bids for each of these
40 branches of the work and (b) bids for all the work and materials
41 required to complete the project to be included in a single overall
42 contract, in which case there shall be set forth in the bid the name or
43 names of all subcontractors to whom the bidder will subcontract for
44 the furnishing of any of the work and materials specified in (a) above.

45 If the sum total of the amounts bid by the lowest responsible bidder
46 for each branch is less than the amount bid by the lowest responsible

1 bidder for all of the work and materials, the authority shall award
2 separate contracts for each of branches to the lowest responsible
3 bidder therefor, but if the sum total of the amount bid by the lowest
4 responsible bidder for each branch is not less than the amount bid by
5 the lowest responsible bidder for all the work and materials, the
6 authority shall award a single over-all contract to the lowest
7 responsible bidder for all of the work and materials.

8 Whenever a contract is awarded under (b) above, all payments
9 required to be made by the authority under the contract for work and
10 materials supplied by a subcontractor shall, upon the certification of
11 the contractor of the amount due to the subcontractor, be paid
12 directly to the subcontractor.

13 All construction, reconstruction, rehabilitation or improvement
14 undertaken by the authority pursuant to this act shall be subject during
15 such undertaking to the supervision of the Division of Building and
16 Construction to the same extent as any project undertaken by the
17 State.

18 c. With respect to the lease or sale of any project or portion thereof
19 to any person, firm, partnership or corporation, for subsequent lease
20 to or purchase by a State agency, no agreement for that lease or sale
21 shall be entered into, unless the authority shall first publicly advertise
22 for bids therefor. The authority shall employ a person, firm,
23 partnership or corporation, independent from any other aspect or
24 component of the financing of or any ownership or leasehold interest
25 in that project, to assist in the bid procedure and evaluation.

26 (cf: P.L.1983, c.138, s.8)

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28 7. This act shall take effect immediately.

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STATEMENT

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33 This bill would allow State and local public contracts valued at
34 \$25,000. or less to be awarded without public advertising for bids.
35 Existing law establishes the limit on the value of a contract which may
36 be awarded without public bidding at \$7,500 but permits periodic
37 adjustments in this amount based upon the cost of living. As a result
38 of these adjustments, the current limit is approximately \$11,200.
39 Nevertheless, the increase to \$25,000 is necessary to streamline the
40 procurement process and give public entities greater flexibility in
41 making purchases. In particular, increasing the limit would enable
42 public entities to make larger purchases on favorable terms from
43 businesses which do not typically bid on public contracts. The
44 practice of making biennial adjustments to the limit in response to
45 changes in the Consumer Price Index, where currently applicable,
46 would be continued. The bill's provisions would apply to the State,

1 units of local government, school districts, State colleges, county
2 colleges and the New Jersey Building Authority.

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7 Increases limit on value of certain State and local public contracts

8 which may be awarded without public advertising for bids.