

SENATE, No. 3968

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 16, 2021

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Increases from \$25,000 to \$250,000 purchasing threshold permitting Director of Division of Purchase and Property to delegate authority to agencies; increases from \$25,000 to \$250,000 bid advertising threshold on certain contracts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2021)

1 AN ACT concerning the State contracting process and amending
2 R.S.52:25-23 and P.L.1954, c.48.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. R.S.52:25-23 is amended to read as follows:

8 52:25-23. The Director of the Division of Purchase and
9 Property may, by written order, delegate purchasing authority to the
10 using agencies for purchases or contracts not in excess of
11 **[\$25,000.00]** \$250,000; except that:

12 a. Purchases or contracts shall not be divided to circumvent the
13 dollar limit imposed by this section;

14 b. Prior to issuing purchase orders pursuant to this section, a
15 using agency shall verify the existence of funds for the purchase or
16 contract and shall verify that the article or service to be purchased
17 or contracted for is not available under any of the contracts issued
18 by the Division of Purchase and Property; and

19 c. Records of all purchases made or contracts negotiated under
20 this section shall be maintained by the using agency and made
21 available for audit by or under the direction of the Director of the
22 Division of Purchase and Property and shall include proper proof
23 that the purchase or contract was made or negotiated competitively,
24 where competition is practicable.

25 The Director of the Division of Purchase and Property may, by
26 written order, rescind or reduce the level of purchasing authority
27 delegated to any using agency determined by the director to have
28 violated the provisions of the delegated authorization.

29 d. The director may, by written order, delegate purchasing
30 authority to a specific agency for advertisement of purchases or
31 contracts not in excess of **[\$250,000]** \$1,000,000, subject to the
32 requirements set forth in this section**[,]** ;

33 (1) when the director has determined that such purchases or
34 contracts are for the procurement of goods or services which are
35 unique to the operations of that particular using agency and are not
36 common or similar to goods or services used by other State
37 agencies and, therefore, are not suitable for leveraging with other
38 State agency procurements; or

39 (2) when a public exigency exists, such as when a public health
40 emergency, pursuant to the "Emergency Health Powers Act,"
41 P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency,
42 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), has been
43 declared by the Governor and is in effect.

44 (cf: P.L.2005, c.336, s.16)

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

Matter underlined thus is new matter.

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

3 2. a. Any such purchase, contract or agreement may be made,
4 negotiated, or awarded by the Director of the Division of Purchase
5 and Property or the Director of the Division of Building and
6 Construction, as the case may be, without advertising, in any
7 manner which the director may deem effective to promote full and
8 free competition whenever competition is practicable, if: (1) in the
9 case of purchases for goods or services, the aggregate amount
10 involved does not exceed **[\$25,000.00]** \$250,000 or the amount
11 determined pursuant to subsection b. of this section, whichever is
12 greater; or (2) (Deleted by amendment, P.L.1985, c.107) or (3) the
13 aggregate amount involved including labor and construction
14 materials does not exceed \$25,000.00 or the amount determined
15 pursuant to subsection b. of this section in the case of contracts or
16 agreements for the erection, construction, alteration, or repair of
17 any public building or facility.

18 When the aggregate amount involved does not exceed
19 **[\$25,000.00]** the amount specified in paragraph (1) of subsection a.
20 of this section, or the amount specified in paragraph (3) of
21 subsection a. of this section or the amount determined pursuant to
22 subsection b. of this section **[in the case of contracts or agreements**
23 **for the erection, construction, alteration, or repair of any public**
24 **building or facility]**, the Director of the Division of Purchase and
25 Property or the Director of the Division of Building and
26 Construction may, at the director's discretion, delegate to the
27 appropriate State department or using agency the director's
28 authority to make, negotiate, or award a contract or agreement
29 without advertising.

30 The Director of the Division of Purchase and Property or the
31 Director of the Division of Building and Construction, as the case
32 may be, shall establish, in accordance with the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
34 regulations concerning procedural requirements for the making,
35 negotiating or awarding of purchases, contracts or agreements
36 pursuant to this section, at the director's discretion.

37 b. The Governor, in consultation with the Department of the
38 Treasury, shall, no later than March 1 of every fifth year beginning
39 in the fifth year after the year in which P.L.1999, c.440 takes effect,
40 adjust the threshold amount set forth in subsection a. of this section,
41 or the threshold amount resulting from any adjustment under this
42 subsection, in direct proportion to the rise or fall of the index rate as
43 that term is defined in section 2 of P.L.1971, c.198 (C.40A:11-2),
44 and shall round the adjustment to the nearest \$1,000. The Governor
45 shall, no later than June 1 of every fifth year, notify the Director of
46 the Division of Purchase and Property and the Director of the
47 Division of Building and Construction of the adjustment. The

1 adjustment shall become effective on July 1 of the year in which it
2 is made.

3 (cf: P.L.1999, c.440, s.95)

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5 3. This act shall take effect immediately.

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STATEMENT

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10 This bill increases, from \$25,000 to \$250,000, the purchasing
11 threshold permitting the Director of Division of Purchase and
12 Property to delegate authority to agencies and increases, from
13 \$25,000 to \$250,000, the bid advertising threshold on certain
14 contracts.

15 Under current law, the Director of the Division of Purchase and
16 Property may, by written order, delegate purchasing authority to the
17 using agencies for purchases or contracts not in excess of \$25,000.
18 This bill increases the amount to \$250,000.

19 Under current law, the director may, by written order, delegate
20 purchasing authority to a specific agency for advertisement of
21 purchases or contracts not in excess of \$250,000, under certain
22 conditions. This bill increases the amount to \$1,000,000 and
23 includes that this may be done when a public exigency exists, such
24 as when a public health emergency or a state of emergency has been
25 declared by the Governor and is in effect.

26 Under current law, any purchase, contract, or agreement may be
27 made, negotiated, or awarded by the Director of the Division of
28 Purchase and Property without advertising if the aggregate amount
29 involved does not exceed \$25,000 or the amount determined by the
30 Governor, in consultation with the Treasurer. The most recent
31 update to the amount was made in 2020 and is currently at \$44,000.
32 This bill increases the bid advertising threshold in the case of
33 purchases for goods or services to \$250,000.