

[First Reprint]

**SENATE, No. 4043**

---

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

INTRODUCED NOVEMBER 8, 2021

**Sponsored by:**

**Senator SANDRA B. CUNNINGHAM**

**District 31 (Hudson)**

**Co-Sponsored by:**

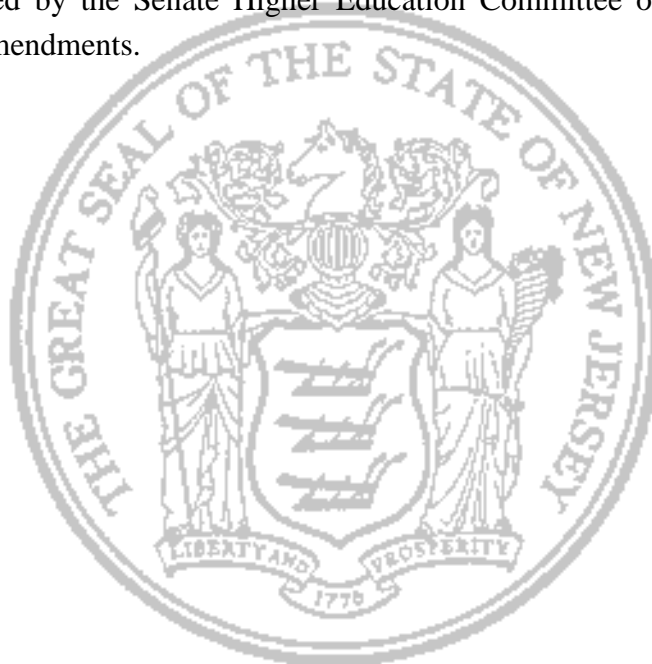
**Senator Ruiz**

**SYNOPSIS**

Raises statutory threshold for certain public bidding, permits bidder disqualification due to prior negative experience, adds exemptions to public bidding requirement under "State College Contracts Law," and establishes process for cooperative pricing system.

**CURRENT VERSION OF TEXT**

As reported by the Senate Higher Education Committee on December 9, 2021, with amendments.



**(Sponsorship Updated As Of: 12/9/2021)**

1 AN ACT concerning the awarding of State college and university  
2 contracts, amending N.J.S.18A:64-6 and P.L.1992, c.61, and  
3 amending and supplementing <sup>1</sup>**[P.L.1986, c.43]** various parts of  
4 the statutory law<sup>1</sup>.  
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*  
8

- 9 1. N.J.S.18A:64-6 is amended to read as follows:  
10 18A:64-6. The board of trustees of a State college shall have  
11 general supervision over and shall be vested with the conduct of the  
12 college. It shall have the power and duty to:  
13 a. Adopt and use a corporate seal;  
14 b. Determine the educational curriculum and program of the  
15 college consistent with the programmatic mission of the institution  
16 or approved by the Commission on Higher Education;  
17 c. Determine policies for the organization, administration and  
18 development of the college;  
19 d. Study the educational and financial needs of the college;  
20 annually acquaint the Governor and Legislature with the condition  
21 of the college; and prepare and present the annual budget to the  
22 Governor, the Division of Budget and Accounting in the  
23 Department of the Treasury and the Legislature in accordance with  
24 law;  
25 e. Disburse all moneys appropriated to the college by the  
26 Legislature and all moneys received from tuition, fees, auxiliary  
27 services and other sources;  
28 f. Direct and control expenditures and transfers of funds  
29 appropriated to the college and tuition received by the college, in  
30 accordance with the provisions of the State budget and  
31 appropriation acts of the Legislature, reporting changes and  
32 additions thereto and transfers thereof to the Director of the  
33 Division of Budget and Accounting in the State Department of the  
34 Treasury and as to funds received from other sources, direct and  
35 control expenditures and transfers in accordance with the terms of  
36 any applicable trusts, gifts, bequests, or other special provisions.  
37 All accounts of the college shall be subject to audit by the State at  
38 any time;  
39 g. In accordance with the provisions of the State budget and  
40 appropriation acts of the Legislature, appoint and fix the  
41 compensation of a president of the college, who shall be the  
42 executive officer of the college and an ex officio member of the  
43 board of trustees, without vote, and shall serve at the pleasure of the  
44 board of trustees;

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHI committee amendments adopted December 9, 2021.

- 1       h. Notwithstanding the provisions of Title 11, Civil Service, of  
2 the Revised Statutes, upon nomination by the president appoint a  
3 treasurer and such deans and other professional members of the  
4 academic, administrative and teaching staffs as defined in section  
5 13 of P.L.1986, c.42 (C.18A:64-21.2) as shall be required and fix  
6 their compensation and terms of employment in accordance with  
7 salary ranges and policies which shall prescribe qualifications for  
8 various classifications and shall limit the percentage of the  
9 educational staff that may be in any given classification;
- 10       i. Upon nomination by the president, appoint, remove, promote  
11 and transfer such other officers, agents or employees as may be  
12 required for carrying out the purposes of the college and assign  
13 their duties, determine their salaries and prescribe qualifications for  
14 all positions, all in accordance with the provisions of Title 11, Civil  
15 Service, of the Revised Statutes;
- 16       j. Grant diplomas, certificates and degrees;
- 17       k. Pursuant to the provisions of the "State College Contracts  
18 Law," P.L.1986, c.43 (C.18A:64-52 et seq.) enter into contracts and  
19 agreements for the purchase of lands, buildings, equipment,  
20 materials, supplies and services; enter into contracts and agreements  
21 with the State or any of its political subdivisions or with the United  
22 States, or with any public body, department or other agency of the  
23 State or the United States or with any individual, firm, or  
24 corporation, which are deemed necessary or advisable by the board  
25 for carrying out the purposes of the college;
- 26       l. If necessary, take and condemn land and other property in  
27 the manner provided by the "Eminent Domain Act of 1971,"  
28 P.L.1971, c.361 (C.20:3-1 et seq.), whenever authorized by law to  
29 purchase land or other property;
- 30       m. Adopt, after consultation with the president and faculty,  
31 bylaws and make and promulgate such rules, regulations and orders,  
32 not inconsistent with the provisions of this article, that are  
33 necessary and proper for the administration and operation of the  
34 college and the carrying out of its purposes;
- 35       n. Establish fees for room and board sufficient for the  
36 operation, maintenance, and rental of student housing and food  
37 service facilities;
- 38       o. Fix and determine tuition rates and other fees to be paid by  
39 students;
- 40       p. Accept from any government or governmental department,  
41 agency or other public or private body or from any other source  
42 grants or contributions of money or property, which the board may  
43 use for or in aid of any of its purposes;
- 44       q. Acquire by gift, purchase, condemnation or otherwise, own,  
45 lease, dispose of, use and operate property, whether real, personal  
46 or mixed, or any interest therein, which is necessary or desirable for  
47 college purposes;

1 r. Employ architects , engineers, consultants, and other  
2 professionals to plan buildings <sup>1</sup>, consistent with the provisions of  
3 the “Building Design Services Act,” P.L.1989, c.277 (C.45:4B-  
4 1 et seq.)<sup>1</sup> ; secure bids for the construction of buildings and for the  
5 equipment thereof; make contracts for the construction of buildings  
6 and for equipment; and supervise the construction of buildings;

7 s. Manage and maintain, and provide for the payment of all  
8 charges and expenses in respect to all properties utilized by the  
9 college;

10 t. Borrow money for the needs of the college, as deemed  
11 requisite by the board, in such amounts, and for such time and upon  
12 such terms as may be determined by the board, provided that this  
13 borrowing shall not be deemed or construed to create or constitute a  
14 debt, liability, or a loan or pledge of the credit, or be payable out of  
15 property or funds, other than moneys appropriated for that purpose,  
16 of the State;

17 u. Authorize any new program, educational department or  
18 school consistent with the institution's programmatic mission or  
19 approved by the commission;

20 v. (Deleted by amendment, P.L.1994, c.48);

21 w. Pursuant to the "State College Contracts Law," P.L.1986,  
22 c.43 (C.18A:64-52 et seq.), award contracts and agreements for the  
23 purchase of goods and services, as distinct from contracts or  
24 agreements for the construction of buildings and other  
25 improvements, to that responsible bidder whose bid, conforming to  
26 the invitation for bids, will be most advantageous to the State  
27 college, price and other factors considered; and

28 x. Pursuant to the "State College Contracts Law," P.L.1986,  
29 c.43 (C.18A:64-52 et seq.), award contracts and agreements for the  
30 construction of buildings and other improvements to the lowest  
31 responsible bidder, whose bid, conforming to the invitation for bids,  
32 will be the most advantageous to the State college.

33 (cf: P.L.2005, c.369, s.1)

34  
35 2. Section 2 of P.L.1986, c.43 (C.18A:64-53) is amended to  
36 read as follows:

37 2. As used in this article, unless the context otherwise  
38 indicates:

39 a. "Board of trustees" means the board of a State college;

40 b. "Contracting agent" means the business officer of the State  
41 college having the power to prepare advertisements, to advertise for  
42 and receive bids, and to make awards for the State college in  
43 connection with the purchases, contracts or agreements permitted  
44 by this article or the officer, committee or employee to whom the  
45 power has been delegated by the State college;

46 c. "Contracts" means contracts or agreements for the  
47 performance of work or the furnishing or hiring of services,

1 materials **【or】** supplies , or construction, as distinguished from  
2 contracts of employment;

3 d. "Legal newspaper" means a newspaper circulating in this  
4 State which has been printed and published in the English language  
5 at least once a week for at least one year continuously;

6 e. "Materials" includes goods and property subject to chapter 2  
7 of Title 12A of the New Jersey Statutes, apparatus or any other  
8 tangible thing, except real property or any interest therein;

9 f. "Extraordinary unspecifiable services" means services or  
10 products which cannot be reasonably described by written  
11 specifications;

12 g. "Professional services" means services rendered or  
13 performed by a person authorized by law to practice a recognized  
14 profession and whose practice is regulated by law and the  
15 performance of which services requires knowledge of an advanced  
16 type in a field of learning acquired by a prolonged formal course of  
17 specialized instruction and study as distinguished from general  
18 academic instruction or apprenticeship and training. Professional  
19 services also means services rendered in the performance of work  
20 that is original and creative in character in a recognized field of  
21 artistic endeavor;

22 h. "Project" means any work, undertaking, construction or  
23 alteration;

24 i. "Purchases" are transactions, for a valuable consideration,  
25 creating or acquiring an interest in goods, services and property  
26 except real property or any interest therein;

27 j. "State college" means an institution of higher education  
28 established pursuant to chapter 64 of Title 18A of the New Jersey  
29 Statutes;

30 k. "Work" includes services and any other activity of a tangible  
31 or intangible nature performed or assumed pursuant to a contract or  
32 agreement with a State college;

33 l. "Information technology" means telecommunication and  
34 computing goods and services, including, but not limited to,  
35 software, hardware, cloud computing, and systems implementation  
36 and support for voice, data and video.

37 (cf: P.L.2005, c.369, s.2)

38

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

41 3. a. (1) Any purchase, contract or agreement for the  
42 performance of any work or the furnishing or hiring of materials or  
43 supplies , through which workers employed in the performance of  
44 the contract are paid in accordance to the "New Jersey Prevailing  
45 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or  
46 price of which, together with any sums expended for the  
47 performance of any work or services in connection with the same  
48 project or the furnishing of similar materials or supplies during the

1 same fiscal year, paid with or out of college funds, does not exceed  
2 the total sum of \$26,200 or, commencing January 1, 2005, the  
3 amount determined pursuant to subsection b. of this section, in any  
4 fiscal year may be made, negotiated and awarded by a contracting  
5 agent, when so authorized by resolution of the board of trustees of  
6 the State college without public advertising for bids and bidding  
7 therefor.

8 (2) Any purchase, contract or agreement for the performance of  
9 any work or the furnishing or hiring of materials or supplies,  
10 through which workers employed in the performance of the contract  
11 are not paid in accordance to the "New Jersey Prevailing Wage  
12 Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or price of  
13 which, together with any sums expended for the performance of any  
14 work or services in connection with the same project or the  
15 furnishing of similar materials or supplies during the same fiscal  
16 year, paid with or out of college funds, does not exceed the total  
17 sum of \$100,000 or, commencing January 1, 2022, the amount  
18 determined pursuant to subsection b. of this section, in any fiscal  
19 year may be made, negotiated and awarded by a contracting agent,  
20 when so authorized by resolution of the board of trustees of the  
21 State college without public advertising for bids and bidding  
22 therefor.

23 b. Commencing January 1, 2005 and every two years  
24 thereafter, the Governor, in consultation with the Department of the  
25 Treasury, shall adjust the threshold <sup>1</sup>~~["amount"]~~ amounts<sup>1</sup> set forth in  
26 subsection a. of this section in direct proportion to the rise or fall of  
27 the Consumer Price Index for all urban consumers in the New York  
28 and Northeastern New Jersey and the Philadelphia areas, as reported  
29 by the United States Department of Labor. The adjustment shall  
30 become effective on July 1 of the year in which it is reported.

31 c. Any purchase, contract or agreement made pursuant to this  
32 section may be awarded for a period of 36 consecutive months,  
33 notwithstanding that the 36 -month period does not coincide with  
34 the fiscal year.

35 (cf: P.L.2005, c.369, s.3)

36  
37 4. Section 4 of P.L.1986, c.43 (C.18A:64-55) is amended to  
38 read as follows:

39 4. a. Every contract or agreement for the performance of any  
40 work or the furnishing or hiring of any materials or supplies,  
41 through which the workers employed in the performance of the  
42 contract are paid in accordance to the "New Jersey Prevailing Wage  
43 Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or the  
44 contract price of which is to be paid with or out of college funds,  
45 not included within the terms of section 3 of this article, shall be  
46 made and awarded only by the State college after public advertising  
47 for bids and bidding therefor, except as provided otherwise in this  
48 article or specifically by any other law. No work, materials or

1 supplies shall be undertaken, acquired or furnished for a sum  
2 exceeding in the aggregate \$26,200 or, commencing January 1,  
3 2005, the amount determined pursuant to subsection b. of section 3  
4 of P.L.1986, c.43 (C.18A:64-54), except by written contract or  
5 agreement.

6 b. Any purchase, contract or agreement for the performance of  
7 any work or the furnishing or hiring of materials or supplies,  
8 through which the workers employed in the performance of the  
9 contract are not paid in accordance to the "New Jersey Prevailing  
10 Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the cost or  
11 price of which, together with any sums expended for the  
12 performance of any work or services in connection with the same  
13 project or the furnishing of similar materials or supplies during the  
14 same fiscal year, paid with or out of college funds, does not exceed  
15 the total sum of \$100,000 or, commencing January 1, 2022, the  
16 amount determined pursuant to subsection b. of section 3 of  
17 P.L.1986, c.43 (C.18A:64-54), in any fiscal year may be made,  
18 negotiated and awarded by a contracting agent, when so authorized  
19 by resolution of the board of trustees of the State college without  
20 public advertising for bids and bidding therefor.

21 (cf: P.L.2005, c.369, s.4)

22  
23 5. Section 5 of P.L.1986, c.43 (C.18A:64-56) is amended to  
24 read as follows:

25 5. Any purchase, contract or agreement of the character  
26 described in section 4 of P.L.1986, c.43 (C.18A:64-55) may be  
27 made, negotiated or awarded by the State college by resolution at a  
28 public meeting of its board of trustees without public advertising for  
29 bids or bidding therefor if:

30 a. The subject matter thereof consists of:

31 (1) Professional services; or

32 (2) Extraordinary unspecifiable services and products which  
33 cannot reasonably be described by written specifications, subject,  
34 however, to procedures consistent with open public bidding  
35 whenever possible; or

36 (3) Materials or supplies which are not available from more than  
37 one potential bidder, including without limitation materials or  
38 supplies which are patented or copyrighted; or

39 (4) The doing of any work by employees of the State college; or

40 (5) The printing of all legal notices and legal briefs, records and  
41 appendices to be used in any legal proceeding to which the State  
42 college may be a party and the use of electronic data or media  
43 services, including the internet, for the printing of these legal  
44 notices and legal briefs, records and appendices; or

45 (6) Textbooks, copyrighted materials, student produced  
46 publications and services incidental thereto, library materials  
47 including without limitation books, periodicals, newspapers,  
48 documents, pamphlets, photographs, reproductions, microfilms,

- 1 pictorial or graphic works, musical scores, maps, charts, globes,
- 2 sound recordings, slides, films, filmstrips, video and magnetic
- 3 tapes, other printed or published matter and audiovisual and other
- 4 materials of a similar nature, necessary binding or rebinding of
- 5 library materials and specialized library services, including
- 6 electronic databases and digital formats; or
- 7 (7) Food supplies and services, including food supplies and
- 8 management contracts for student centers, dining rooms and
- 9 cafeterias; or
- 10 (8) The supplying of any product or the rendering of any service
- 11 by the public utility which is subject to the jurisdiction of the Board
- 12 of Public Utilities, in accordance with tariffs and schedules of
- 13 charges made, charged and exacted, filed with that board; or
- 14 (9) Equipment repair service if in the nature of an extraordinary
- 15 unspecifiable service and necessary parts furnished in connection
- 16 with the services; or
- 17 (10) Specialized machinery or equipment of a technical nature
- 18 which will not reasonably permit the drawing of specifications, and
- 19 the procurement thereof without advertising is in the public interest;
- 20 or
- 21 (11) Insurance, including the purchase of insurance coverage
- 22 and consulting services, which exceptions shall be in accordance
- 23 with the requirements for extraordinary unspecifiable services; or
- 24 (12) Publishing of legal notices in newspapers as required by
- 25 law and the use of electronic data or media services, including the
- 26 internet, for the publication of the legal notices; or
- 27 (13) The acquisition of artifacts or other items of unique
- 28 intrinsic, artistic or historic character; or
- 29 (14) The collection of amounts due on student loans, including
- 30 without limitation loans guaranteed by or made with funds of the
- 31 United States of America, and amounts due on other financial
- 32 obligations to the State college, including but not limited to, the
- 33 amounts due on tuition and fees and room and board; or
- 34 (15) Professional consulting services; or
- 35 (16) Entertainment, including without limitation theatrical
- 36 presentations, band and other concerts, movies and other
- 37 audiovisual productions; or
- 38 (17) Contracts employing funds created by student activities
- 39 fees charged to students or otherwise raised by students and
- 40 expended by student organizations; or
- 41 (18) Printing, including without limitation catalogs, yearbooks
- 42 and course announcements and the production and reproduction of
- 43 such material in electronic and digital formats, including compact
- 44 discs; or
- 45 (19) Information technology; or
- 46 (20) Personnel recruitment and advertising, including without
- 47 limitation advertising seeking student enrollment; or



- 1 (21) Educational supplies, books, articles of clothing and other  
2 miscellaneous articles purchased by a State college for resale to  
3 college students and employees; or
- 4 (22) Purchase or rental of graduation caps and gowns , and  
5 award certificates or plaques , or the rental of space and equipment  
6 used for graduation and other events and ceremonies ; or
- 7 (23) Items available from vendors at costs below State contract  
8 pricing for the same product or service, which meets or exceeds the  
9 State contract terms or conditions; or
- 10 (24) Management contracts for bookstores, performing arts  
11 centers, residence halls, parking facilities and building operations;  
12 or
- 13 (25) Consulting services involving information technology,  
14 curricular or programmatic review, fund raising, transportation,  
15 safety or security; or
- 16 (26) Construction management services for construction,  
17 alteration or repair of any building or improvement; or
- 18 (27) Purchase or rental of equipment of a technical nature when  
19 the procurement thereof without advertising is necessary in order to  
20 assure standardization of equipment and interchangeability of parts  
21 in the public interest; or
- 22 (28) Banking and investment services; or
- 23 (29) Energy supply, such as electric and gas, from a third-party  
24 supplier; or
- 25 (30) Hazardous waste collection and disposal services; or
- 26 (31) Supplies and services for the administration of study  
27 abroad or remote programs; or
- 28 (32) Transportation services; or
- 29 (33) Vehicle maintenance; or
- 30 (34) Vending services; or
- 31 (35) Medical testing.
- 32 b. It is to be made or entered into with the United States of  
33 America, the State of New Jersey, a county or municipality or any  
34 board, body, or officer, agency or authority or any other state or  
35 subdivision thereof.
- 36 c. The State college has advertised for bids pursuant to section  
37 4 of P.L.1986, c.43 (C.18A:64-55) on two occasions and (i) has  
38 received no bids on both occasions in response to its advertisement,  
39 or (ii) has rejected the bids on two occasions because the State  
40 college has determined that they are not reasonable as to price, on  
41 the basis of cost estimates prepared for or by the State college prior  
42 to the advertising therefor, or have not been independently arrived  
43 at in open competition, or (iii) on one occasion no bids were  
44 received pursuant to (i) and on one occasion all bids were rejected  
45 pursuant to (ii), in whatever sequence; any contract or agreement  
46 may then be negotiated by a two-thirds affirmative vote of the  
47 authorized membership of the board of trustees authorizing the  
48 contract or agreement; provided that:

1 (1) A reasonable effort is just made by the contracting agent to  
2 determine that the same or equivalent materials or supplies at a cost  
3 which is lower than the negotiated price are not available from any  
4 agency or authority of the United States, the State of New Jersey or  
5 of the county in which the State college is located, or any  
6 municipality in close proximity to the State college;

7 (2) The terms, conditions, restrictions and specifications set  
8 forth in the negotiated contract or agreement are not substantially  
9 different from those which were the subject of competitive bidding  
10 pursuant to section 4 of this article; and

11 (3) Any minor amendment or modification of any of the terms,  
12 conditions, restrictions and specifications, which were the subject of  
13 competitive bidding pursuant to section 4 of P.L.1986, c.43  
14 (C.18A:64-55), shall be stated in the resolution awarding the  
15 contract or agreement; except that if on the second occasion the  
16 bids received are rejected as unreasonable as to price, the State  
17 college shall notify each responsible bidder submitting bids on the  
18 second occasion of its intention to negotiate and afford each bidder  
19 a reasonable opportunity to negotiate, but the State college shall not  
20 award the contract or agreement unless the negotiated price is lower  
21 than the lowest rejected bid price submitted on the second occasion  
22 by a responsible bidder, is the lowest negotiated price offered by  
23 any reasonable vendor, and is a reasonable price for the work,  
24 materials, supplies or services. Whenever a State college shall  
25 determine that a bid was not arrived at independently in open  
26 competition pursuant to subsection c. (ii) of this section, it shall  
27 thereupon notify the Attorney General of the facts upon which its  
28 determination is based and, when appropriate, it may institute  
29 appropriate proceedings in any State or federal court of competent  
30 jurisdiction for a violation of any State or federal antitrust law or  
31 laws relating to the unlawful restraint of trade.

32 d. It is to be awarded through a reverse auction for the purchase  
33 of utilities and other commodities.

34 (cf: P.L.2005, c.369, s.5)

35  
36 6. Section 6 of P.L.1986, c.43 (C.18A:64-57) is amended to  
37 read as follows:

38 6. Any purchase, contract, or agreement may be made,  
39 negotiated or awarded by a State college without public advertising  
40 for bids and bidding therefor, notwithstanding that the cost or  
41 contract price will exceed ~~[\$26,200]~~ <sup>1</sup>[\$100,000] or, commencing  
42 January 1, 2005, the amount determined pursuant to  
43 subsection b. of ~~the appropriate threshold amount, as adjusted and~~  
44 established pursuant to<sup>1</sup> section 3 of P.L.1986, c.43 (C.18A:64-54),  
45 when an emergency affecting the health, safety or welfare of  
46 occupants of college property requires the immediate delivery of the  
47 materials or supplies or the performance of the work, if the

1 purchases, contracts or agreements are awarded or made in the  
2 following manner:

3 a. A written requisition for the performance of the work or the  
4 furnishing of materials or supplies, certified by the employee in  
5 charge of the building, facility or equipment where the emergency  
6 occurred, is filed with the contracting agent or his deputy in charge  
7 describing the nature of the emergency, the time of its occurrence,  
8 and the need for invoking this section. The contracting agent, or his  
9 deputy in charge, being satisfied that the emergency exists, is  
10 authorized to award a contract for the work, materials or supplies.

11 b. Upon the furnishing of the work, materials or supplies in  
12 accordance with the terms of the contract or agreement, the  
13 contractor furnishing the work, materials or supplies is entitled to  
14 be paid therefor and the State college is obligated for the payment.

15 c. The board of trustees may prescribe rules and procedures to  
16 implement the requirements of this section.

17 (cf: P.L.2005, c.369, s.6)

18

19 7. Section 19 of P.L.1986, c.43 (C.18A:64-70) is amended to  
20 read as follows:

21 19. All contracts or agreements for the purchase of goods and  
22 services, as distinct from contracts or agreements for the  
23 construction of buildings and other improvements, which require  
24 public advertisement for bids shall be awarded by the board of  
25 trustees to the responsible bidder whose bid, conforming to the  
26 invitation for bids, will be most advantageous to the State college,  
27 price and other factors considered , except that a bid may be  
28 disqualified due to prior negative experience pursuant to the  
29 provisions of section 10 of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill).

31 Prior to the award of any contract or agreement which does not  
32 require public advertisement, the estimated cost of which is 20% or  
33 more of the amount set forth in this act or, commencing January 1,  
34 1985, 20% of the amount determined by the Governor pursuant to  
35 subsection b. of section 3 of this act, the contracting agent shall,  
36 except in the case of professional services, solicit quotations  
37 therefor whenever practicable, and the award thereof shall be made,  
38 in accordance with section 3 of this article, on the basis of the  
39 quotation, conforming to the request for proposals, which is most  
40 advantageous to the State college, price and other factors  
41 considered; however, if the contracting agent deems it impractical  
42 to solicit competitive quotations or having sought the quotations  
43 determines that the award should not be made on that basis, the  
44 contracting agent shall file a statement of explanation of the reason  
45 or reasons therefor, which shall be placed on file with the purchase,  
46 contract, or agreement.

47 (cf: P.L.2005, c.369, s.12)

1       8. Section 2 of P.L.1992, c.61 (C.18A:64-76.1) is amended to  
2 read as follows:

3       2. a. Whenever the entire cost for the construction, alteration  
4 or repair of any building by a State college will exceed the amount  
5 determined pursuant to subsection b. of section 3 of P.L.1986, c.43  
6 (C.18A:64-54), the contracting agent shall advertise for and receive  
7 in the manner provided by law:

8       (1) separate bids for branches of work in the following  
9 categories:

10       (a) the plumbing and gas fitting work;

11       (b) the refrigeration, heating and ventilating systems and  
12 equipment;

13       (c) the electrical work, including any electrical power plants,  
14 tele-date, fire alarm, or security systems;

15       (d) the structural steel and ornamental iron work;

16       (e) general construction, which shall include all other work and  
17 materials required for the completion of the project, or

18       (2) bids for all work and materials required to complete the  
19 entire project if awarded as a single contract, or

20       (3) both (1) and (2) above.

21       In the case of separate bids under paragraph (1) or (3) of this  
22 subsection, prime contractors for categories (a) through (d) shall not  
23 be required to name subcontractors in their bid. In the case of a  
24 single bid under paragraph (2) or (3), all bids submitted shall set  
25 forth the names and license numbers of all subcontractors to whom  
26 the general contractor will subcontract the work described in the  
27 foregoing categories (a) through (d). Subcontractors who furnish  
28 non-specialty trade work pursuant to category (e) in paragraph (1)  
29 of this subsection or subcontractors who furnish work to named  
30 subcontractors pursuant to categories (a) through (d) in paragraph  
31 (1) of this subsection shall not be named in the bid.  
32 Notwithstanding the foregoing provisions of this subsection, a State  
33 college may choose to require in its bid specification that a  
34 subcontractor shall be named in a bid when, in the case of  
35 paragraph (1), separate bids for each category, the work of that  
36 subcontractor exceeds 35 percent of the State college's estimated  
37 amount of value of the work, which shall be set forth in the bid  
38 specification.

39       b. Contracts shall be awarded to the lowest responsible bidder  
40 whose bid, conforming to the invitation for bids, will be the most  
41 advantageous to the State college , except that a bid may be  
42 disqualified due to prior negative experience pursuant to the  
43 provisions of section 10 of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill). Whenever two or more bids of equal  
45 amounts are the lowest bids submitted by responsible parties, the  
46 college may award the contract to any of the parties, as, in its  
47 discretion, it may determine.

48 (cf: P.L.2012, c.59, s.2)

1       9. Section 27 of P.L.1986, c.43 (C.18A:64-78) is amended to  
2 read as follows:

3       27. Any college may, by resolution of its board of trustees,  
4 authorize the sale in the following manner of its personal property  
5 not needed for college purposes:

6       a. If the estimated fair value of the property to be sold exceeds  
7 **[\$26,200]** \$100,000 or, commencing January 1,2005, the amount  
8 determined pursuant to subsection b. of section 3 of P.L.1986, c.43  
9 (C.18A:64-54), in any one sale and the property does not consist of  
10 perishable goods, it shall be sold at public sale to the highest bidder.

11       b. Notice of the date, time and place of the public sale, together  
12 with a description of the items to be sold and the conditions of sale,  
13 shall be published once in a legal newspaper. Sales shall be held  
14 not less than seven nor more than 14 days after the publication of  
15 the notice thereof.

16       c. Personal property may be sold to the United States, the State  
17 of New Jersey, another college or to any body politic by private sale  
18 without advertising for bids.

19       d. If no bids are received, the property may then be sold at  
20 private sale without further publication or notice thereof but in no  
21 event at less than the estimated fair value; or the State college may,  
22 if it so elects, reoffer the property at public sale. As used herein,  
23 "estimated fair value" means the market value of the property if  
24 sold by a willing seller to a willing buyer less the cost to the college  
25 of continuing to store or maintain the property.

26       e. A State college may reject all bids if it determines a  
27 rejection to be in the public interest. In any case in which the  
28 college has rejected all bids, it may readvertise the personal  
29 property for a subsequent public sale. If it elects to reject all bids at  
30 a second public sale pursuant to this section, it may then sell the  
31 personal property without further publication or notice thereof at  
32 private sale, but in no event shall the negotiated price at the private  
33 sale be less than the amount of the highest bid rejected at the  
34 preceding two public sales, nor shall the terms or conditions of sale  
35 be changed or amended.

36       f. If the estimated fair value of the property to be sold does not  
37 exceed **[\$26,200]** \$100,000 or, commencing January 1, 2005, the  
38 amount determined pursuant to subsection b. of section 3 of  
39 P.L.1986, c.43 (C.18A:64-54), in any one sale or the property  
40 consists of perishable goods, it may be sold at private sale without  
41 advertising for bids.

42 (cf: P.L.2005, c.369, s.15)

43

44       10. (New section) a. A board of trustees of a State college may,  
45 by resolution approved by a majority of the board and subject to  
46 subsections b. and c. of this section, disqualify a bidder who would  
47 otherwise be determined to be the lowest responsible bidder or the  
48 responsible bidder whose bid would otherwise be determined to be

1 most advantageous to the State college as applicable, if the board  
2 finds that a board of an institution of higher education in the State  
3 has had prior negative experience with the bidder within the past 15  
4 years.

5 b. As used in this section, "prior negative experience" means  
6 any of the following:

7 (1) the bidder has been found, through either court adjudication,  
8 arbitration, mediation, or other contractually stipulated alternate  
9 dispute resolution mechanism, to have: failed to provide or perform  
10 goods or services; or failed to complete the contract in a timely  
11 manner; or otherwise performed unsatisfactorily under a prior  
12 contract with a State college;

13 (2) the bidder defaulted on a contract, thereby requiring a State  
14 college to utilize the services of another contractor to provide the  
15 goods or perform the services or to correct or complete the contract;

16 (3) the bidder defaulted on a contract, thereby requiring a State  
17 college to look to the bidder's surety for completion of the contract  
18 or tender of the costs of completion; or

19 (4) the bidder is debarred or suspended from contracting with  
20 any of the agencies or departments of the executive branch of the  
21 State of New Jersey at the time of the contract award, whether or  
22 not the action was based on experience with a State college.

23 c. The following conditions shall apply if the State college is  
24 contemplating a disqualification based on prior negative experience:

25 (1) The existence of any of the indicators of prior negative  
26 experience set forth in this section shall not require that a bidder be  
27 disqualified. In each instance, the decision to disqualify shall be  
28 made within the discretion of the State college and shall be  
29 rendered in the best interests of the State college.

30 (2) All mitigating factors shall be considered in determining the  
31 seriousness of the prior negative experience and in deciding  
32 whether disqualification is warranted.

33 (3) The bidder shall be furnished by the State college with a  
34 written notice (a) stating that a disqualification is being considered;  
35 (b) setting forth the reason for the disqualification; and (c)  
36 indicating that the bidder shall be accorded an opportunity for a  
37 hearing before the State college if the bidder so requests within a  
38 stated period of time. At the hearing, the bidder shall show good  
39 cause why the bidder should not be disqualified by presenting  
40 documents and testimony. If the State college determines that good  
41 cause has not been shown by the bidder, it may vote to find the  
42 bidder lacking in responsibility and, thus, disqualified.

43 (4) Disqualification shall be for a reasonable, defined period of  
44 time which shall not exceed five years.

45 (5) A disqualification, other than a disqualification pursuant to  
46 which a State college is prohibited by law from entering into a  
47 contract with a bidder, may be voided or the period thereof may be  
48 reduced, in the discretion of the State college, upon the submission

1 of a good faith application under oath, supported by documentary  
2 evidence, setting forth substantial and appropriate grounds for the  
3 granting of relief, such as reversal of a judgment, or actual change  
4 of ownership, management or control of the bidder.

5 (6) An opportunity for a hearing need not be offered to a bidder  
6 whose disqualification is based on its suspension or debarment by  
7 an agency or department of the executive branch of the State of  
8 New Jersey. The term of such a disqualification shall be concurrent  
9 with the term of the suspension or debarment by the State agency or  
10 department.

11  
12 <sup>1</sup>11. (New section) a. (1) The governing board of a public  
13 institution of higher education may by resolution establish a  
14 cooperative pricing system with the governing boards of other  
15 public institutions of higher education.

16 (2) A lead agency shall procure goods and services through a  
17 cooperative pricing system using a master contract. A master  
18 contract shall be secured in accordance with all applicable State  
19 contracting and procurement laws.

20 (3) A participating contracting unit may use the master contract  
21 during the contract period to procure goods or services of the same  
22 specification, quality, and price as that contained in the master  
23 contract with the lead agency.

24 b. No vendor shall be required to extend bid prices to  
25 participating contracting units in a cooperative pricing system  
26 unless so specified in the bids.

27 c. As used in this section:

28 “Cooperative pricing system” means a purchasing system in  
29 which one public institution of higher education acts as the lead  
30 agency in establishing a master contract with a vendor for the  
31 provision of goods or services and through which other public  
32 institutions of higher education may subsequently procure goods or  
33 services using the master contract.

34 “Lead agency” means a public institution of higher education  
35 that enters into a master contract under a cooperative pricing system  
36 pursuant to the provisions of this section.

37 “Participating contracting unit” means a public institution of  
38 higher education, other than the lead agency, that procures goods or  
39 services from a vendor using a master contract.<sup>1</sup>

40  
41 <sup>1</sup>[11.] 12.<sup>1</sup> This act shall take effect on the 30th day after the  
42 date of enactment.