

CHAPTER 412

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

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

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

Purchasing authority delegation for amounts under \$150,000; under \$250,000, certain.

52:25-23. The Director of the Division of Purchase and Property may, by written order, delegate purchasing authority to the using agencies for purchases or contracts not in excess of \$150,000 beginning on the effective date of P.L.2021, c.412, \$200,000 beginning on January 1, 2023, and \$250,000 beginning on January 1, 2024 and thereafter; except that:

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

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

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

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

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

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

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

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

C.52:34-7 State bid advertising thresholds.

2. a. Any such purchase, contract or agreement may be made, negotiated, or awarded by the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction, as the case may be, without advertising, in any manner which the director may deem effective to promote full and free competition whenever competition is practicable, if: (1) in the case of purchases for goods or services, the aggregate amount involved does not exceed \$150,000 beginning on the effective date of P.L.2021, c.412, \$200,000 beginning on January 1, 2023, and \$250,000 beginning on January 1, 2024 and thereafter, or the

amount determined pursuant to subsection b. of this section, whichever is greater; or (2) (Deleted by amendment, P.L.1985, c.107) or (3) the aggregate amount involved including labor and construction materials does not exceed \$25,000.00 or the amount determined pursuant to subsection b. of this section in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility.

When the aggregate amount involved does not exceed the amount specified in paragraph (1) of subsection a. of this section, or the amount specified in paragraph (3) of subsection a. of this section or the amount determined pursuant to subsection b. of this section, the Director of the Division of Purchase and Property or the Director of the Division of Building and Construction may, at the director's discretion, delegate to the appropriate State department or using agency the director's authority to make, negotiate, or award a contract or agreement without advertising.

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

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

3. This act shall take effect immediately.

Approved January 18, 2022.