

P.L. 2021, CHAPTER 412, *approved January 18, 2022*
Senate, No. 3968 (*First Reprint*)

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]** ¹\$150,000 beginning on the effective date of P.L. ____,
12 c. (C. ____) (pending before the Legislature as this bill), \$200,000
13 beginning on January 1, 2023, and¹ \$250,000 ¹beginning on January
14 1, 2024 and thereafter¹; except that:

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

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

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

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

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

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

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:

¹Assembly floor amendments adopted January 10, 2022.

(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.

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

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

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 **[\$25,000.00]** ¹\$150,000 beginning on the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), \$200,000 beginning on January 1, 2023, and¹ ¹\$250,000 ¹beginning on January 1, 2024 and thereafter,¹ 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 **[\$25,000.00]** 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 **[in the case of contracts or agreements for the erection, construction, alteration, or repair of any public building or facility]**, 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.

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

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

15

16 3. This act shall take effect immediately.

17

18

19

20

21 Increases purchasing threshold permitting Director of Division of
22 Purchase and Property to delegate authority to agencies; increases
23 bid advertising threshold on certain contracts by same scale.