



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 12, 2016

Honorable Andrew Cuomo
Governor, State of New York
Executive Chamber
State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

In light of allegations of corruption and bid rigging involving contracts related to state economic development projects, there is a renewed interest in enhancing transparency and accountability of the State's procurement process. This is an important issue that merits full and thoughtful deliberation. Given the traditional role of the Office of State Comptroller in the oversight of contracts and payments, I offer the enclosed recommendations for statutory reform for your review and consideration.

Key provisions of the proposal include:

- **Restoring the Comptroller's independent oversight for SUNY, CUNY and OGS centralized contracts.** The allegations of criminal conduct show widespread weaknesses in SUNY's procurement process and lax oversight of its affiliated not-for-profits. Restoring systemic checks and balances taken away from the independent Office of State Comptroller can help prevent future abuses and ensure that everyone is following the same rules.
- **Prohibiting the use of not-for-profits to bypass procurement laws and transparency.** All contracts for state spending should either be held directly by a state agency or public authority and subject to independent oversight. SUNY's affiliated not-for-profits involved in the economic development projects had lax oversight and poor processes in place that appear to have been manipulated in multiple ways, allowing a non-competitive contracting process to occur and business to be directed to preferred contractors. This proposal would prevent these entities from being used for state business and to bypass the routine and well-tested rules and regulations governing procurements followed by all State agencies.
- **Requiring State authorities to follow the same procurement requirements as State agencies.** The rules for procurement and contract oversight are not the same for every entity entrusted with taxpayer funds. Under current law, State authorities can adopt their own internal guidelines and do not have to follow the requirements for State agencies clearly set out in law. This proposal requires that absent express legislative authority to do otherwise, State authorities must adopt procurement guidelines that are consistent with the statutory requirements for agencies. Following uniform requirements will give assurance of competition, fairness and best value for taxpayers.

- **Subjecting SUNY Research Foundation contracts over \$1 million to review by the State Comptroller.** Currently, the Research Foundation (RF) is not required to have any independent review of its contracts. The proposal would make all RF contracts funded with state dollars over \$1 million subject to approval by the State Comptroller.
- **Creating tougher ethics requirements and penalties for those who abuse the procurement process.** The proposal would strengthen disclosure of conflicts for employees of State agencies and authorities and others engaged in the process. The proposal would also prohibit vendors who have violated procurement laws from getting state business and create a code of ethics for vendors doing business with the state.
- **Increasing transparency.** To assure a level playing field for all potential vendors, the proposal would require state agencies, state authorities and their affiliates to publish in the State Contract Reporter all potential business opportunities, notice of single or sole-source procurements, and the results of procurements when awards are made.

It is our shared interest to ensure integrity and taxpayer value in the procurement process. Staff and I are available to you and your staff to answer any questions or provide any additional information needed for your evaluation of this package. Thank you for your consideration.

Sincerely,

Thomas P. DiNapoli
State Comptroller