

CHAPTER 92

AN ACT concerning the performance of certain State contracts and supplementing 34 of Title 52 of the Revised Statutes.

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

C.52:34-13.2 State contracts, services performed within U.S.; exceptions.

1. a. Every State contract primarily for the performance of services shall include provisions which specify that all services performed under the contract or performed under any subcontract awarded under the contract shall be performed within the United States.

b. The provision of subsection a. of this section shall not apply whenever:

(1) the Director of the Division of Purchase and Property or the Director of the Division of Property Management and Construction, as appropriate, certifies in writing a finding that a service is required by the Executive Branch of the State and that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer;

(2) the contracting officer for the Legislature or for any office, board, bureau or commission within or created by the Legislative Branch certifies in writing a finding that a service is required by the Legislature or the office, board, bureau or commission within or created thereby and that the service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the appropriate legislative authority;

(3) the contracting officer of any independent State authority, commission, instrumentality or agency certifies in writing a finding that the service required by the independent State authority, commission, instrumentality or agency cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the executive director or other equivalent authority of that authority, commission, instrumentality or agency; or

(4) any of the directors or contracting officers in paragraphs (1) through (3) of this subsection b., as may be applicable, certifies in writing a finding that inclusion in the State contract of a provision as described in subsection a. of this section with respect to the performance of a service required by their contracting entity under the State contract would violate the terms, conditions, or limitations of any grant, funding or financial assistance from the federal government or any agency thereof, and the certification is approved by the appropriate approval officer.

As used in this section, "State contract" means every contract entered into by (1) the Governor, the head of any of the principal departments in the Executive Branch of the State Government, and the head of any division, board, bureau, office, commission or other instrumentality within or created by such department, (2) the contracting officer of the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch, and (3) the head or contracting officer of any independent State authority, commission, instrumentality or agency within or created by such an authority, who is authorized to enter into contracts that include the performance of services. A county, municipality or school district shall not be deemed an agency or instrumentality of the State for the purpose of this section.

2. The State Treasurer shall review all State contracts, as defined in section 1 of P.L.2005, c.92 (C.52:34-13.2), primarily for the performance of services, which contracts have not been completed or terminated, and determine if any of the services performed by the contractor and any subcontractor are being performed outside of the United States. Within 180 days after the effective date of P.L.2005, c.92, the findings of the review shall be reported in writing to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly, and the Minority Leader of the General Assembly, and shall be made available to the general public.

3. This act shall take effect on the 90th day following enactment

Approved May 5, 2005.