

CHAPTER 147

AN ACT concerning contracting by State colleges and supplementing P.L.1986, c.43 (C.18A:64-52 et seq.).

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

C.18A:64-76.2 Methods of withholding of payment.

1. Whenever any contract, the total price of which exceeds \$100,000, entered into by a State college, for the construction, reconstruction, alteration or repair of any building, structure, facility or other improvement to real property, requires the withholding of payment of a percentage of the amount of the contract, the contractor may agree to the withholding of payments in the manner prescribed in the contract, or may deposit with the State college registered book bonds, entry municipal bonds, State bonds or other appropriate bonds of the State of New Jersey, or negotiable bearer bonds or notes of any political subdivision of the State, the value of which is equal to the amount necessary to satisfy the amount that otherwise would be withheld pursuant to the terms of the contract. The nature and amount of the bonds or notes to be deposited shall be subject to approval by the State college. For purposes of this section, "value" shall mean par value or current market value, whichever is lower.

If the contractor agrees to the withholding of payments, the amount withheld shall be deposited, with a banking institution or savings and loan association insured by an agency of the Federal government, in an account bearing interest at the rate currently paid by such institutions or associations on time or savings deposits. The amount withheld, or the bonds or notes deposited, and any interest accruing on such bonds or notes, shall be returned to the contractor upon fulfillment of the terms of the contract relating to such withholding. Any interest accruing on cash payments withheld shall be credited to the State college.

C.18A:64-76.3 Provision for partial payments.

2. Any contract, the total price of which exceeds \$100,000, entered into by a State college involving the construction, reconstruction, alteration, repair or maintenance of any building, structure, facility or other improvement to real property, shall provide for partial payments to be made at least once each month as the work progresses, unless the contractor shall agree to deposit bonds with the State college pursuant to section 1 of P.L.2013, c.147 (C.18A:64-76.2).

C.18A:64-76.4 Withholding by State college pending completion of contract.

3. a. With respect to any contract entered into by a State college pursuant to section 2 of P.L.2013, c.147 (C.18A:64-76.3) for which the contractor shall agree to the withholding of payments pursuant to section 1 of P.L.2013, c.147 (C.18A:64-76.2), 2% of the amount due on each partial payment shall be withheld by the State college pending completion of the contract.

b. Upon acceptance of the work performed pursuant to the contract for which the contractor has agreed to the withholding of payments pursuant to subsection a. of this section, all amounts being withheld by the State college shall be released and paid in full to the contractor within 45 days of the final acceptance date agreed upon by the contractor and the State college, without further withholding of any amounts for any purpose whatsoever, provided that the contract has been completed as indicated. If the State college requires maintenance security after acceptance of the work performed pursuant to the contract, such

security shall be obtained in the form of a maintenance bond. The maintenance bond shall be no longer than two years and shall be no more than 100% of the project costs.

4. This act shall take effect immediately.

Approved August 19, 2013.