

Clauses Required in State Contracts Where There Will Be Third-Party Contracts “For” the State

Please note that with respect to hospitals operated by the Department of Health, OGS and certain SUNY and CUNY contracts subject to approval by the Comptroller, the required clause should be modified to reflect the higher contract approval thresholds applicable to such entities.

Where the State Contractor’s only responsibility under the contract is to contract “for” the State, the following clause shall be inserted into the contract between the State agency and the State Contractor:

- ***Comptroller’s Approval required for Contracts “For” the State***

In accordance with section 112 of the New York State Finance Law, any contract entered into “for” the State or a State agency where the contract exceeds \$50,000, must be approved by the New York State Comptroller and filed in his or her office. It has been determined that the contractor, in carrying out its responsibilities under this contract, will be entering into contracts “for” the State. Therefore, in accordance with section 112, all contracts entered into by the contractor in carrying out its responsibilities under this contract will be contracts “for” the State which must be approved by the Comptroller before they become effective or binding. In addition any such contract for the State must be let by the State contractor in accordance with the procurement statutes applicable to [insert agency name].¹ The failure of the contractor to obtain such approval will preclude any payment or reimbursement to the contractor for the expenses of such contract. The contractor agrees to insert into each of the contracts entered into for the State, the following clause:

1. *Where the use of the State Contractor is specifically provided for by law the sentence reading, “In addition, any such contract for the State must be let by the State Contractor in accordance with the procurement statutes applicable to [insert agency name].” should be deleted.*

In accordance with section 112 of the New York State Finance Law, any contract entered into “for” the State or a State agency must be approved by the New York State Comptroller and filed in his or her office where the contract exceeds \$50,000. It has been determined that this is a contract “for” the State of New York. Therefore, in accordance with section 112, and as outlined in paragraph 3 of the attached Appendix A (Standard Clauses For Third-Party Contracts For New York State), to the extent that this contract exceeds such threshold it must be approved by the New York State Comptroller before it becomes effective or binding. In addition, certain other clauses, including a records and right to audit clause, are required to be included in this contract, and such clauses are attached as Appendix A (Standard Clauses For Third-Party Contracts For New York State) to this contract.

Where a State Contractor has multiple responsibilities under a contract and only some of those responsibilities will involve contracting for the State (see Examples 2 and 3 provided in Section 10 of Chapter XI of the Guide to Financial Operations (Third Party Contracting) a modified notice must be included in substantially the following form:

- ***Comptroller’s Approval required for Contracts “For” the State***

In accordance with section 112 of the New York State Finance Law, any contract entered into “for” the State or a State agency where the contract exceeds \$50,000, must be approved by the New York Comptroller and filed in his or her office. It has been determined that, the contractor, in carrying out its responsibilities with respect to _____[insert description of portion of contract deemed to be “for” the State”]_____ under this contract (but not its other responsibilities under this contract) will be entering into contracts “for” the

State. Therefore, in accordance with section 112, all contracts entered into by the contractor in carrying out its responsibilities with respect to _____[insert description of portion of contract deemed to be "for" the State]_____ under this contract (but not contracts entered into by the contractor in carrying out its other responsibilities under this contract) will be contracts "for" the State which must be approved by the Comptroller before they become effective or binding. In addition, any such contract for the State must be let by the State contractor in accordance with the procurement statutes applicable to [insert agency name].² The failure of the contractor to obtain such approval will preclude any payment or reimbursement to the contractor for the expenses of such contract . The contractor agrees to insert into each of the contracts entered into for the State, the following clause:

In accordance with section 112 of the New York State Finance Law, any contract entered into "for" the State or a State agency must be approved by the New York State Comptroller and filed in his or her office where the contract exceeds \$50,000. It has been determined that this is a contract "for" the State of New York. Therefore, in accordance with section 112, and as outlined in paragraph 3 of the attached Appendix A (Standard Clauses For Third-Party Contracts For New York State), to the extent that this contract exceeds such threshold it must be approved by the New York State Comptroller before it becomes effective or binding. In addition, certain other clauses, including a records and right to audit clause, are required to be included in this contract, and such clauses are attached as Appendix A (Standard Clauses For Third-Party Contracts For New York State) to this contract.

2. Where the use of the State Contractor is specifically provided for by law the sentence reading, "In addition, any such contract for the State must be let by the State Contractor in accordance with the procurement statutes applicable to [insert agency name]." should be deleted.