



Legislation Text

File #: Res 1831-2009, **Version:** *

Res. No. 1831

Resolution calling upon the State Legislature to require the Department of Education to adhere to the standards typically followed by other City agencies, as specified in the procurement provisions of the City Charter, when awarding contracts, concessions and franchises.

By Council Members Katz, Avella, Comrie, Fidler, James, Stewart, Weprin, Palma, Gerson, Nelson, Yassky, Jackson, Liu and Gentile

Whereas, In 2002, the State Legislature granted the Mayor of the City of New York control over the City's public schools, in part to create a more accountable and transparent school system; and

Whereas, In September 2003 the Department of Education (DOE) signed an interim agreement giving the Snapple Beverage Group, Inc. (Snapple) the exclusive right to sell water and juice products in vending machines to be installed in the New York City public schools; and

Whereas, The Office of the New York City Comptroller conducted an audit of the process by which the DOE awarded a vending machine license to Snapple in March 2004; and

Whereas, The audit by the City Comptroller's office found that the process by which the DOE awarded Snapple an exclusive vending machine opportunity in City schools was "fundamentally flawed" citing "minimal solicitation efforts, an inadequate request for proposals package, and a defective bid evaluation and selection process"; and

Whereas, In 2006 the DOE again came under intense criticism for awarding a \$15.8 million no-bid contract to Alvarez & Marsal, a consulting firm hired to identify ways to reduce the DOE's budget; and

Whereas, More recently, the DOE has been considering awarding the largest no-bid contract in its history, \$38.5 million for Future Technology Associates to merge City and DOE data systems, a move that has been postponed since January 2008; and

Whereas, Further review by the City Comptroller's office of contracts awarded by DOE since the advent of mayoral control of the City's public schools, found an alarming increase in the number of contracts not competitively bid; and

Whereas, According to the Comptroller's office, in 2002, when the school system was still controlled by the Board of Education, just \$12 million in contracts were awarded without competitive bidding; and

Whereas, After the Mayor took control of City schools, the amount spent on no-bid contracts rose to between \$37 million and \$56 million in 2003, 2004 and 2005, according to the Comptroller's office; and

Whereas, According to the City's Public Advocate, no-bid contracts reached a high of \$121 million in 2006, then dropped again last year to \$62 million; and

Whereas, Over the past five years, such no-bid contracts have totaled \$315 million, according to the *New York Times*; and

Whereas, Prior to mayoral control, the Board of Education approved all contracts, including those not competitively bid, at a public meeting, allowing for public comment and review before approval; and

Whereas, The DOE is not subject to the procurement provisions of the City Charter nor to the purchasing rules promulgated by the City's Procurement Policy Board; and

Whereas, Instead, State Education Law gives the Chancellor the authority to "[d]evelop a procurement policy for the city school district of the city of New York and the districts and public schools therein"; and

Whereas, The DOE has established a set of internal policies and procedures for awarding non-competitively bid contracts; and

Whereas, Currently, DOE's policies on no-bid contracts only require approval by the Executive Director of the Division of Contracts and Purchasing for contracts from \$5,000 to \$100,000; and

Whereas, Contracts valued over \$100,000 must be approved by the Committee on Contracts, an internal group of DOE employees chaired by the Executive Director of the Division of Contracts and Purchasing, with no public review process; and

Whereas, The DOE is the single largest purchaser of goods and services among City agencies; and

Whereas, During the current fiscal year, the DOE plans to spend approximately \$4.9 billion (out of a total budget of approximately \$17 billion) on contracts for goods and services; and

Whereas, Now that the DOE is under the direct control of the Mayor, making DOE contracts and agreements subject to the same procurement rules as contracts and agreements made by the City or its agencies would improve public accountability and transparency; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State Legislature to require the Department of Education to adhere to the standards typically followed by other City agencies, as specified in the procurement provisions of the City Charter, when awarding contracts, concessions and franchises.

LS#5327
JA
6/16/08 4:35pm