

CHAPTER 37

AN ACT authorizing the deployment of oversight monitors in the implementation of certain recovery and rebuilding projects, supplementing Title 52 of the Revised Statutes.

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

C.52:15D-1 Findings, declarations relative to deployment of oversight monitors in implementation of certain recovery and rebuilding projects.

1. The Legislature finds and declares that:

a. Hurricane Sandy has inflicted approximately \$30,000,000,000 worth of damage upon the State and exposed the need for more than \$7,000,000,000 in mitigation efforts to buttress the State's defenses from future storms, according to the Governor's initial estimates of November of 2012;

b. The State of New Jersey, with the assistance of the federal government, shall endeavor to repair, rebuild, and revitalize the portions of the State devastated by Hurricane Sandy;

c. The State of New Jersey is duty bound to its residents and all taxpayers in the United States to ensure that all resources dedicated to the recovery from Hurricane Sandy be applied in an efficient manner and that the State should take all necessary precautions to prevent, detect, and remediate waste, fraud, and abuse;

d. Given the severity of the damage caused by Hurricane Sandy and the magnitude of the resources necessary to begin the recovery process there is a need to ensure that the State has sufficient capacity for efficient oversight; and

e. The use of integrity monitors as independent oversight providers may be an effective measure to supplement the State's existing compliance control mechanisms to prevent the inefficient expenditure of Hurricane Sandy recovery resources.

C.52:15D-2 Conditions required in certain contracts using integrity oversight monitor; waivers.

2. a. (1) Subject to the availability of federal funding, for each State contract involving consideration of \$5,000,000 or more for a recovery and rebuilding project, the State Treasurer shall require to be included in the contract such conditions as the State Treasurer deems necessary to facilitate the use of integrity oversight monitors.

The State Treasurer shall select integrity oversight monitors for the implementation of a contract, unless this condition is waived by the State Treasurer upon a determination that sufficient integrity oversight is already present in the contract or a funding recipient's existing compliance controls.

The State Treasurer shall have the authority to require that the services of an integrity oversight monitor be retained from the qualified integrity oversight monitor pool established pursuant to subsection b. of this section for any duration of the contract upon a determination by the State Treasurer that an integrity oversight monitor is necessary to alleviate potential or ongoing inefficiency or that the size or nature of the contract makes the procurement of an integrity oversight monitor prudent.

(2) Subject to the availability of federal funding, for recovery and rebuilding projects not involving a State contract, the governmental entity that is a party to such contract shall provide the State Treasurer, in such form as the State Treasurer may prescribe, notice of such contract, a description of the recovery and rebuilding project, the parties thereto, and the funding source for the project costs, including integrity oversight monitoring services. Upon receipt of such notice, and subject to the availability of federal funding, the State Treasurer

shall procure the services of an integrity oversight monitor from the qualified integrity oversight monitor pool established pursuant to subsection b. of this section during the initial implementation of the recovery and rebuilding project involving a contract that includes consideration of \$5,000,000 or more, unless this condition is waived by the State Treasurer upon a determination of sufficient funding recipient compliance controls.

For recovery and rebuilding projects not involving a State contract, the State Treasurer shall have the authority to procure the services of an integrity oversight monitor from the qualified integrity oversight monitor pool established pursuant to subsection b. of this section for any duration of a recovery and rebuilding project involving a contract that includes consideration of \$5,000,000 or more upon a determination by the State Treasurer that an integrity oversight monitor is necessary to alleviate potential or ongoing inefficiency or that the size or nature of the recovery and rebuilding project makes the procurement of an integrity oversight monitor prudent.

(3) If the State Treasurer issues a waiver of the requirement for an integrity oversight monitor pursuant to this subsection, the State Treasurer shall provide the Governor, the Senate President, and the Speaker of the General Assembly a report in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), which report shall detail the reasoning associated with the waiver and the contract or funding recipient's existing compliance controls. The report shall be due within ten business days of the issuance of the waiver.

(4) Subject to the availability of federal funding, for a State or non-State contract involving consideration of less than \$5,000,000 for a recovery and rebuilding project, the State Treasurer's authorization to impose conditions concerning integrity oversight monitors pursuant to paragraphs (1) and (2) of this subsection shall apply if the State Treasurer determines that integrity oversight monitor conditions are necessary to alleviate potential or ongoing inefficiency or that the size or nature of a recovery and rebuilding project makes the procurement of an integrity oversight monitor prudent.

b. The State Treasurer shall establish a pool of qualified integrity oversight monitors. The State Treasurer shall qualify integrity oversight monitors for inclusion in the pool through a public procurement process in accordance with existing public contracting laws and regulations. Provided, however, to expedite the implementation of integrity oversight monitor oversight for recovery and rebuilding projects, the State Treasurer is authorized to administer the public procurement process for integrity oversight monitors in as expeditious a manner as is feasible under existing public contracting laws and regulations and to take such anticipatory action as is necessary to begin the selection process and creation of a qualified integrity oversight monitor pool in advance of the State's receipt of applicable federal resources dedicated to the recovery from Hurricane Sandy or other storms.

Upon inclusion on the qualified integrity oversight monitor pool, a qualified integrity oversight monitor is eligible for assignment pursuant to subsection a. of this section. The pool of qualified integrity oversight monitors shall be made available through a public website. This section shall not be construed to authorize the waiver of any applicable provision of law or regulation governing conflicts of interest.

c. An integrity oversight monitor shall periodically report to the governmental entity that is a party to the contract as the State Treasurer deems necessary and shall be subject to the malfeasance and inefficiency reporting protocol developed by the State Treasurer in consultation with the State Comptroller. The State Treasurer's reporting protocol shall require an integrity oversight monitor upon a finding of a likely criminal violation or lesser degree of waste, fraud, or abuse, to make a report immediately to the Attorney General and State Comptroller.

d. For purposes of executing the oversight functions of an integrity oversight monitor an integrity oversight monitor shall be afforded access to all records and information necessary to execute the integrity oversight monitor's oversight functions. Provided however, if an integrity oversight monitor's access to records and information may compromise sensitive information, the chief executive officer of the entity in possession of the records may limit the integrity oversight monitor's access accordingly. If a chief executive officer denies sensitive information to an integrity oversight monitor pursuant to this subsection, the chief executive officer shall provide the integrity oversight monitor with its reasoning for the denial in a written notice.

e. On the first business day of each calendar quarter, each integrity oversight monitor shall provide to the State Treasurer for distribution to the Legislature, in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1), and the Governor a report detailing the integrity oversight monitor's provision of services during the three-month period second preceding the due date of the report and any previously unreported provision of services, which shall include, but not be limited to, detailed findings concerning the integrity oversight monitor's provision of services and recommendations for corrective or remedial action relative to findings of malfeasance and inefficiency. The report shall include a privilege log which shall detail each denial of sensitive information that the integrity oversight monitor exercises in preparing the report for transmission to the Legislature and the Governor pursuant to this subsection. The report shall not include any information which may compromise a potential criminal investigation or prosecution or any proprietary information. The State Treasurer shall have the authority to specify reporting requirements for an integrity oversight monitor pursuant to this subsection relative to the specific services provided by an integrity oversight monitor.

No report shall become due for an integrity oversight monitor until at least three months after commencing duties as an integrity oversight monitor. The State Treasurer shall provide the integrity oversight monitor reports received pursuant to this subsection to the Legislature and the Governor within ten business days of receipt.

f. As used in this section:

"Recovery and rebuilding project" means (1) the use of funds provided pursuant to federal legislation enacted by the 113 Congress of the United States of America which contains, but is not limited to, disaster assistance for impacts associated with Hurricane Sandy, or other major storms, in New Jersey; (2) the use of funds disbursed through the State treasury for undertakings to address the damage associated with the State of Emergency identified in the Governor's Executive Order 104, dated October 27, 2012, concerning Hurricane Sandy, which undertakings shall include emergency operations, loss reimbursement, repairs, rebuilding, restorations, reconstruction, removal of debris, temporary housing, household assistance, relief, hazard mitigation improvements, construction, and other recovery and rebuilding activities deemed to be a recovery and rebuilding project by the State Treasurer; and (3) the use of funds provided pursuant to federal legislation or disbursed through the State Treasury for undertakings to address the damage associated with any other major storm or natural disaster.

"Integrity oversight monitor" means a private entity that contracts to provide specialized services to ensure legal compliance, detect misconduct, and promote best practices in the administration of recovery and rebuilding projects, which services may include, but shall not be limited to, legal, investigative, accounting, forensic accounting, engineering, other professional specialties, risk assessment, developing compliance system constructs, loss prevention, monitoring, contract managers and independent private inspectors general.

“Sensitive information” means information which if disclosed to an integrity oversight monitor would jeopardize compliance with State or federal law, threaten public health, welfare, or safety, or harm the competitive economic position of a party including, but not limited to, information deemed confidential or proprietary or related to copyright or trade secrets.

3. This act shall take effect immediately.

Approved March 27, 2013.