

THE SENATE  
STATE OF NEW YORK



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October 18, 2022

Hon. Thomas P. DiNapoli  
New York State Comptroller  
110 State St  
Albany NY 12236

Re: Review of COVID Test Kit Contracts

Dear Comptroller DiNapoli:

I recently received communications from your office regarding your office's work and commitment to "holding accountable those who betray the public's trust for their personal gain," including the successful efforts of the Office of the State Comptroller's Division of Investigations, in partnership with local, State and federal law enforcement, to recover more than \$80 million in misappropriated public funds. As you may be aware, the *Times Union* recently reported on a highly suspect deal New York State made for COVID-19 test kits that totaled \$637 million, and that were awarded to a donor of the Governor's political campaign<sup>1</sup>. Respectfully, I urge you to exercise your fiduciary duties over the State's finances by reviewing this deal for the apparent misuse of public funds.

According to the *Times Union*'s reporting, despite the Department of Health paying between \$5 and \$7.80 per test to three different companies, the State offered Digital Gadgets, which is linked to nearly \$300,000 in campaign donations to the Governor, an average of \$12.25 per test—57% higher than the next highest contract. Furthermore, despite the tests being manufactured by a nearby New Jersey-based firm, California purchased the same test kits for 45% less than New York State, and this is despite New York buying five times as many tests, which would often lead to a lower bulk rate. According to the *Times Union*, if New York would have purchased these tests for the same rate as California, it would have cost the state \$286 million less in taxpayer funds—more than triple the \$82 million recovered by your Office's Division of Investigations.

Two weeks after the last of the \$637 million payments was made to Digital Gadgets, the company's CEO, Charles Tebele, held a political fundraiser for Governor Hochul, and the Governor's campaign disclosure report indicates Tebele's business partner, Jack Cayre, made a \$69,700 donation to the Governor on the same day.

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<sup>1</sup> <https://www.timesunion.com/state/article/California-paid-45-less-for-test-supplied-by-17444536.php> and <https://www.timesunion.com/state/article/How-a-Hochul-donor-received-637M-million-in-17424950.php>

Prior to this donation, Mr. Cayre had never made a political donation of more than \$7,000 to a political candidate, and the Cayre family has donated more than \$418,000 to Governor Hochul.

These facts must also be viewed in the context of Governor Hochul's use of her executive order powers to bypass the competitive bidding process—and your Office's oversight that usually accompanies these contracts—which were put in place to ensure pay-to-play is not occurring.

Following the resignation of our previous Governor in the face of multiple scandals, New Yorkers' trust in government may very well be at an all-time low. I have written to the Attorney General's Office, as well as the Albany County District Attorney, to investigate this apparent pay-to-play scheme, and I have filed a Freedom of Information Law (FOIL) request for a copy of any contracts and/or purchases made by New York State that did not comply with the requirements outlined in sections 97-G, 112 or 163 of the State Finance Law pursuant to Executive Order Number 11 and successive Executive Orders 11.1, 11.2, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8 and 11.9. However, I am yet to receive a response regarding my request for an investigation, and my FOIL request has been delayed by the Governor's administration. Respectfully, I am urging you to continue the work you have done to protect taxpayer dollars, and ensure to New Yorkers that no one is permitted to misuse public funds.

I appreciate your attention to this urgent matter, and look forward to your response to this request.

Sincerely,

A handwritten signature in cursive script that reads "Sue Serino".

Senator Sue Serino

41<sup>st</sup> District