

3564

2013-2014 Regular Sessions

I N S E N A T E

February 5, 2013

Introduced by Sens. BONACIC, ADDABBO -- read twice and ordered printed,
and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, the state finance law and the general
municipal law, in relation to labor performed under certain public
work contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 5 of section 220 of the labor law is amended by
2 adding a new paragraph m to read as follows:
3 M. "JOB ORDER CONTRACT" SHALL MEAN A COMPETITIVE BID, INDEFINITE QUAN-
4 TITY, FIXED PRICE, MULTI-TASK CONTRACT, WHERE A BASE CONTRACT IS AWARDED
5 WITH PRE-ESTABLISHED TASKS AND PRICES, SPECIFICATIONS AND GENERAL
6 CONTRACT CONDITIONS. CONTRACTORS ARE PERMITTED TO BID BY SUBMITTING A
7 COEFFICIENT OR COEFFICIENTS FOR A JOB ORDER CONTRACT BASED ON A UNIT
8 PRICE BOOK, WHICH CONTAINS A LIST OF ALL TASKS THAT MAY BE PERFORMED AS
9 PART OF THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT. SUCH
10 CONTRACTS MUST BE FILED WITH THE COMMISSIONER BY THE DEPARTMENT OF
11 JURISDICTION AND MUST EXPRESSLY STATE THAT ALL WORK PERFORMED UNDER SUCH
12 CONTRACT IS PURSUANT TO THIS SECTION.
13 S 2. The state finance law is amended by adding a new section 148 to
14 read as follows:
15 S 148. JOB ORDER CONTRACTS. 1. "JOB ORDER CONTRACT", SHALL HAVE THE
16 SAME MEANING AS SET FORTH IN PARAGRAPH M OF SUBDIVISION FIVE OF SECTION
17 TWO HUNDRED TWENTY OF THE LABOR LAW.
18 2. THE JOB ORDER CONTRACT MUST HAVE A DEFINED SCOPE OF WORK, WHICH
19 INCLUDES:
20 A. A LIMITATION TO ONE OF THE GEOGRAPHIC REGIONS COMMONLY REFERRED TO
21 AS THE CAPITAL DISTRICT, MOHAWK VALLEY, HUDSON VALLEY, CENTRAL NEW YORK,
22 FINGER LAKES, WESTERN NEW YORK, SOUTHERN TIER, NORTH COUNTRY, LONG
23 ISLAND OR NEW YORK CITY;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD08603-01-3

1 B. IDENTIFICATION OF TRADES RELEVANT FOR THE SPECIFIC SCOPE OF WORK
2 TO BE PERFORMED, INCLUDING BUT NOT LIMITED TO:

- 3 (I) BASIC TRADES, INCLUDING CARPENTERS, LABORERS AND BRICKLAYERS,
4 (II) PLUMBING AND GAS FITTING,
5 (III) STEAM HEATING, HOT WATER HEATING, VENTILATING AND AIR CONDITION-
6 ING APPARATUS,
7 (IV) ELECTRIC WIRING AND STANDARD ILLUMINATING FIXTURES,
8 (V) ROOFING,
9 (VI) WELDING,
10 (VII) IRONWORK,
11 (VIII) CONCRETE FINISHING, OR
12 (IX) PAINTING AND PLASTERING; AND

13 C. A DETAILED DESCRIPTION OF THE WORK TO BE PERFORMED UNDER THE BASE
14 CONTRACT, A LIST OF THE TASKS NECESSARY TO COMPLETE THE WORK TO BE
15 PERFORMED UNDER THE BASE CONTRACT AND THE TRADE CLASSIFICATIONS OF THE
16 WORKERS, MECHANICS AND LABORERS WHO WILL PERFORM EACH OF THE LISTED
17 TASKS IN THE BASE CONTRACT.

18 3. THE DEFINED SCOPE OF WORK TO BE PERFORMED UNDER THE BASE CONTRACT
19 MUST NOT BE OVERLY BROAD SO AS TO PREVENT THE CONTRACTOR FROM MAKING AN
20 INFORMED BID DURING THE COMPETITIVE BID PROCESS. THE CONTRACTING ENTITY
21 MUST LIMIT THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT TO THOSE
22 PRE-ESTABLISHED TASKS AND PRICES REFERRED TO IN THE GENERAL CONTRACT
23 CONDITIONS.

24 4. BEFORE SOLICITING BIDS FOR THE BASE CONTRACT, THE CONTRACTING ENTI-
25 TY SHALL FILE ALL INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH
26 A OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW
27 WITH THE FISCAL OFFICER. THE CONTRACTING ENTITY MAY NOT SOLICIT BIDS FOR
28 THE CONTRACT UNTIL ALL REQUIREMENTS OF SUBPARAGRAPH (I) OF PARAGRAPH A
29 OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW
30 HAVE BEEN SATISFIED.

31 5. THE COST OF A JOB ORDER CONTRACT MAY NOT EXCEED FIVE HUNDRED THOU-
32 SAND DOLLARS. SUCH CONTRACT IS LIMITED TO ONE YEAR AND MAY BE RENEWED
33 FOR AN ADDITIONAL TWELVE MONTHS TWICE SO LONG AS THE FIVE HUNDRED THOU-
34 SAND DOLLAR THRESHOLD HAS NOT BEEN REACHED. IT IS IMPERMISSIBLE TO
35 SUBDIVIDE A CONTRACT INTO SEPARATE CONTRACTS IN ORDER TO MEET THE
36 REQUIREMENTS OF THIS SUBDIVISION. THE RESTRICTIONS IN THIS SUBDIVISION
37 SHALL NOT APPLY WHERE THE PUBLIC OWNER REQUIRES A PROJECT LABOR AGREE-
38 MENT CONSISTENT WITH PROVISIONS OF SECTION TWO HUNDRED TWENTY-TWO OF THE
39 LABOR LAW.

40 6. THE JOB ORDER CONTRACT AND ALL SUBCONTRACTS ASSOCIATED WITH SUCH
41 JOB ORDER CONTRACT MUST EXPRESSLY STATE THAT ALL WORK PERFORMED UNDER
42 SUCH CONTRACTS IS PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE LABOR
43 LAW.

44 7. THESE REQUIREMENTS APPLY TO ALL JOB ORDER CONTRACTS ISSUED BY A
45 STATE AGENCY, AS DEFINED BY SUBDIVISION THREE OF SECTION TWO-A OF THIS
46 CHAPTER, A COVERED AUTHORITY, AS DEFINED BY SUBDIVISION SIX OF SECTION
47 TWO-A OF THIS CHAPTER, THE NEW YORK CITY HOUSING AUTHORITY, ESTABLISHED
48 UNDER TITLE ONE OF ARTICLE THIRTEEN OF THE PUBLIC HOUSING LAW, AND THE
49 NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY, ESTABLISHED UNDER TITLE SIX
50 OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW. ALL SUCH ENTITIES MUST
51 LIMIT ASSIGNMENT UNDER CONTRACTS ISSUED PURSUANT TO THIS SECTION TO A
52 MINORITY PORTION OF ITS ANNUAL CAPITAL BUDGET, IF SUCH BUDGET EXISTS.

53 8. IF AN ENTITY DESCRIBED IN SUBDIVISION SEVEN OF THIS SECTION SEEKS A
54 THIRD PARTY CONSULTANT TO ASSIST, IN ANY MANNER, WITH THE BIDDING AND/OR
55 IMPLEMENTATION OF A JOB ORDER CONTRACT, SUCH THIRD PARTY CONSULTANT MUST
56 BE SELECTED PURSUANT TO A COMPETITIVE BID PROCESS.

1 S 3. The general municipal law is amended by adding a new section
2 103-h to read as follows:

3 S 103-H. JOB ORDER CONTRACTS. 1. "JOB ORDER CONTRACT", SHALL HAVE THE
4 SAME MEANING AS SET FORTH IN PARAGRAPH M OF SUBDIVISION FIVE OF SECTION
5 TWO HUNDRED TWENTY OF THE LABOR LAW.

6 2. THE JOB ORDER CONTRACT MUST HAVE A DEFINED SCOPE OF WORK, WHICH
7 INCLUDES:

8 A. A LIMITATION TO ONE OF THE GEOGRAPHIC REGIONS COMMONLY REFERRED TO
9 AS THE CAPITAL DISTRICT, MOHAWK VALLEY, HUDSON VALLEY, CENTRAL NEW YORK,
10 FINGER LAKES, WESTERN NEW YORK, SOUTHERN TIER, NORTH COUNTRY, LONG
11 ISLAND OR NEW YORK CITY;

12 B. IDENTIFICATION OF TRADES RELEVANT FOR THE SPECIFIC SCOPE OF WORK
13 TO BE PERFORMED, INCLUDING BUT NOT LIMITED TO:

14 (I) BASIC TRADES, INCLUDING CARPENTERS, LABORERS AND BRICKLAYERS,

15 (II) PLUMBING AND GAS FITTING,

16 (III) STEAM HEATING, HOT WATER HEATING, VENTILATING AND AIR CONDITION-
17 ING APPARATUS,

18 (IV) ELECTRIC WIRING AND STANDARD ILLUMINATING FIXTURES,

19 (V) ROOFING,

20 (VI) WELDING,

21 (VII) IRONWORK,

22 (VIII) CONCRETE FINISHING, OR

23 (IX) PAINTING AND PLASTERING; AND

24 C. A DETAILED DESCRIPTION OF THE WORK TO BE PERFORMED UNDER THE BASE
25 CONTRACT, A LIST OF THE TASKS NECESSARY TO COMPLETE THE WORK TO BE
26 PERFORMED UNDER THE BASE CONTRACT AND THE TRADE CLASSIFICATIONS OF THE
27 WORKERS, MECHANICS AND LABORERS WHO WILL PERFORM EACH OF THE LISTED
28 TASKS IN THE BASE CONTRACT.

29 3. THE DEFINED SCOPE OF WORK TO BE PERFORMED UNDER THE BASE CONTRACT
30 MUST NOT BE OVERLY BROAD SO AS TO PREVENT THE CONTRACTOR FROM MAKING AN
31 INFORMED BID DURING THE COMPETITIVE BID PROCESS. THE CONTRACTING ENTITY
32 MUST LIMIT THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT TO THOSE
33 PRE-ESTABLISHED TASKS AND PRICES REFERRED TO IN THE GENERAL CONTRACT
34 CONDITIONS.

35 4. BEFORE SOLICITING BIDS FOR THE BASE CONTRACT, THE CONTRACTING ENTI-
36 TY SHALL FILE ALL INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH
37 A OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW
38 WITH THE FISCAL OFFICER. THE CONTRACTING ENTITY MAY NOT SOLICIT BIDS FOR
39 THE BASE CONTRACT UNTIL ALL REQUIREMENTS OF SUBPARAGRAPH (I) OF PARA-
40 GRAPH A OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE
41 LABOR LAW HAVE BEEN SATISFIED.

42 5. THE COST OF A JOB ORDER CONTRACT MAY NOT EXCEED FIVE HUNDRED THOU-
43 SAND DOLLARS. SUCH CONTRACT IS LIMITED TO ONE YEAR AND MAY BE RENEWED
44 FOR AN ADDITIONAL TWELVE MONTHS TWICE SO LONG AS THE FIVE HUNDRED THOU-
45 SAND DOLLAR THRESHOLD HAS NOT BEEN REACHED. IT IS IMPERMISSIBLE TO
46 SUBDIVIDE A CONTRACT INTO SEPARATE CONTRACTS IN ORDER TO MEET THE
47 REQUIREMENTS OF THIS SUBDIVISION. THE RESTRICTIONS IN THIS SUBDIVISION
48 SHALL NOT APPLY WHERE THE PUBLIC OWNER REQUIRES A PROJECT LABOR AGREE-
49 MENT CONSISTENT WITH PROVISIONS OF SECTION TWO HUNDRED TWENTY-TWO OF THE
50 LABOR LAW.

51 6. THE JOB ORDER CONTRACT AND ALL SUBCONTRACTS ASSOCIATED WITH SUCH
52 JOB ORDER CONTRACT MUST EXPRESSLY STATE THAT ALL WORK PERFORMED UNDER
53 SUCH CONTRACTS IS PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE LABOR
54 LAW.

55 7. THESE REQUIREMENTS APPLY TO ALL POLITICAL SUBDIVISIONS. ALL SUCH
56 POLITICAL SUBDIVISIONS MUST LIMIT ASSIGNMENTS UNDER CONTRACTS ISSUED

1 PURSUANT TO THIS SECTION TO A MINORITY PORTION OF ITS ANNUAL CAPITAL
2 BUDGET, IF SUCH BUDGET EXISTS.

3 8. IF A POLITICAL SUBDIVISION SEEKS A THIRD PARTY CONSULTANT TO
4 ASSIST, IN ANY MANNER, WITH THE BIDDING AND/OR IMPLEMENTATION OF A JOB
5 ORDER CONTRACT, SUCH THIRD PARTY CONSULTANT MUST BE SELECTED PURSUANT TO
6 A COMPETITIVE BID PROCESS.

7 S 4. This act shall take effect immediately and shall apply to all job
8 order contracts solicited or renewed on or after such effective date.