S T A T E  O F  N E W  Y O R K

2039

2009-2010 Regular Sessions

I N  A S S E M B L Y

January 15, 2009

Introduced by M. of A. CALHOUN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to the responsibility of bidders

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

Section 1. The state finance law is amended by adding a new section 169 to read as follows:

S 169. GUIDELINES FOR DETERMINING THE RESPONSIBILITY OF BIDDERS. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS OTHERWISE SPECIFIED:

A. "CONTRACTING AGENCY" SHALL MEAN ANY STATE AGENCY, AUTHORITY, BOARD, COMMISSION OR ANY OTHER INSTRUMENTALITY OF THE STATE; PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT BE DEEMED TO APPLY TO ANY MUNICIPAL GOVERNMENT.

B. "CONTRACT" SHALL MEAN ANY MATERIAL OR SERVICE CONTRACT THAT IS REQUIRED BY STATUTE TO BE LET BY COMPETITIVE BID TO THE LOWEST RESPONSIBLE BIDDER OR ANY MATERIAL OR SERVICE CONTRACT FOR WHICH THE CONTRACTING AGENCY HAS LET A COMPETITIVE BID OR REQUEST FOR PROPOSAL, ABSENT ANY STATUTORY MANDATE TO DO SO.

C. "BIDDER," "CONTRACTOR" AND "SUBCONTRACTOR" SHALL MEAN ANY PERSON, PARTNERSHIP, FIRM, CORPORATION OR BUSINESS ENTITY SUBMITTING TO A COMPETITIVE BID FOR, RECEIVING THE AWARD OF, OR SUBMITTED FOR APPROVAL AS A SUBCONTRACTOR ON, A CONTRACT BY ANY CONTRACTING AGENCY.

2. IN DETERMINING THE RESPONSIBILITY OF A BIDDER, CONTRACTOR OR SUBCONTRACTOR, ALL CONTRACTING AGENCIES SHALL GIVE DUE CONSIDERATION TO THE BIDDER'S, CONTRACTOR'S OR SUBCONTRACTOR'S:

A. EXPERTISE,

B. PRIOR EXPERIENCE IN THE JOB TO BE PERFORMED,

C. FINANCIAL RESOURCES TO PERFORM THE WORK OF THE CONTRACT OR SUBCONTRACT IN A TIMELY, COMPETENT AND ACCEPTABLE MANNER,

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

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D. HISTORY ON PREVIOUS CONTRACTS,
E. RECORD REGARDING THE SAFETY OF EMPLOYEES,
F. EVIDENCE OF LICENSES, INSURANCE, SURETY BONDS OR OTHER FINANCIAL RESPONSIBILITIES REQUIRED BY LAW,
G. HISTORY OF CRIMINAL CONDUCT IN CONNECTION WITH GOVERNMENT CONTRACTS OR THE CONDUCT OF ANY BUSINESS ACTIVITIES IN VIOLATION OF LOCAL, STATE AND FEDERAL LAWS, RULES, REGULATIONS OR CODES, AND
H. PREVIOUS SUSPENSION OR REVOCATION OF ANY PROFESSIONAL LICENSE OF ANY DIRECTOR OR OFFICER, OR ANY HOLDER OF FIVE PERCENT OR MORE OF THE BIDDER'S, CONTRACTOR'S OR SUBCONTRACTOR'S STOCK OR EQUITY.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.