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

10935

I N A S S E M B L Y

May 4, 2010

Introduced by M. of A. CHRISTENSEN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to contracts of the Onondaga county water authority and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Legislative findings. It is hereby determined and declared that for the benefit and health of the people of Onondaga county (outside the city of Syracuse and the town of Skaneateles) all counties contiguous to Onondaga and the county of Oneida, that the Onondaga county water authority (OCWA) should be empowered to undertake a ten year pilot program allowing the OCWA to provide waterline construction services to such municipalities, upon their request, utilizing the OCWA annual construction contract. The utilization of such annual construction contract will provide economies of scale and reduce the cost of constructing water transmission and distribution lines so that the people of the affected municipalities may obtain affordable potable water. It is also determined that such annual contract should not be utilized for construction of any project with a projected cost of less than two hundred fifty thousand dollars to ensure that small contractors and minority and women owned businesses have a meaningful opportunity to participate in waterline construction projects.

S 2. Section 1166 of the public authorities law, as amended by chapter 525 of the laws of 1979, subdivision 1 as amended by chapter 597 of the laws of 1995 and subdivision 2 as added by chapter 416 of the laws of 1994, is amended to read as follows:

S 1166. Contracts. 1. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than ten thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a

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

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newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted. In any contract for work, material or supplies, there shall be inserted in the discretion of the authority a provision that additional work may be done or material or supplies furnished for the purpose of completing such contract at an expense not exceeding fifteen per centum of the amount of such contract if such additional work, materials or supplies shall be ordered by the authority. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security the authority shall have the right to declare his deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interest of the authority be thereby served, adopt on behalf of the authority any or all sub-contracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontract or subcontracts so adopted. No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the county of Onondaga upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than ten thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. Upon the adoption of a resolution by a vote of two-thirds of all the members of the authority stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, material or supplies of more than ten thousand dollars may be awarded by the authority to the lowest responsible bidder furnishing the required security after advertisement for sealed bids therefor in the manner provided in this section. Such resolution shall contain a full explanation of the reasons for its adoption. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO LIMIT THE POWER OF THE AUTHORITY PURSUANT TO THIS TITLE TO DO ANY SUCH CONSTRUCTION DIRECTLY BY THE OFFICERS, AGENTS AND EMPLOYEES OF THE AUTHORITY OR TO FURNISH MATERIALS AND SUPPLIES FOR THAT CONSTRUCTION PROVIDED THAT THE MATERIALS AND SUPPLIES ARE OBTAINED BY THE AUTHORITY FROM THE LOWEST RESPONSIBLE BIDDER AWARDED THE AUTHORITY'S THEN CURRENT ANNUAL CONTRACT FOR MATERIALS AND SUPPLIES.

2. THE AUTHORITY PURSUANT TO THIS TITLE MAY ENTER INTO AGREEMENTS SUBJECT TO THIS SECTION WITH ANY MUNICIPALITY: (A) WITHIN THE TERRITO-

RIAL LIMITS OF ONONDAGA COUNTY EXCEPT THE TOWN OF SKANEATELES AND CITY OF SYRACUSE;

(B) ANY COUNTY CONTIGUOUS TO ONONDAGA COUNTY; AND

(C) ONEIDA COUNTY, FOR OR ON BEHALF OF A WATER, WATER SUPPLY OR WATER DISTRIBUTION AND STORAGE DISTRICT FOR THE SALE OR FURNISHING OF SUPPLIES, MATERIALS AND EQUIPMENT AND TO CONSTRUCT, DEVELOP, EXTEND OR IMPROVE A WATER SUPPLY OR DISTRIBUTION SYSTEM, OR ANY PART OR PARTS THEREOF, FOR OR ON BEHALF OF SUCH A DISTRICT. WHEN THE CONTRACTORS ENGAGED BY THE AUTHORITY TO DO THE CONSTRUCTION IS THE LOW RESPONSIBLE BIDDER AWARDED THE AUTHORITY'S THEN CURRENT ANNUAL CONTRACT FOR CONSTRUCTION AND MAINTENANCE, THE AGREEMENT WITH THE MUNICIPALITY MAY BE ENTERED INTO BY DIRECT NEGOTIATION. ANY SUCH AGREEMENT MAY CONTAIN PROVISIONS EQUITABLY ALLOCATING COSTS AND SUCH AGREEMENT SHALL NOT BE SUBJECT TO ANY OTHER PROVISION OF LAW WITH RESPECT TO COMPETITIVE BIDDING IN CONFLICT HEREWITH.

3. THE PROVISIONS OF THIS SECTION DEALING WITH THE AUTHORITY'S CURRENT ANNUAL CONTRACT SHALL APPLY ONLY TO THOSE CONTRACTS WITH MUNICIPALITIES IN THE SPECIFIED COUNTIES THAT ELECT TO BE INCLUDED IN THE AUTHORITY'S SERVICE AREA PURSUANT TO SUBDIVISION TWENTY-FOUR OF SECTION ONE THOUSAND ONE HUNDRED FIFTY-FOUR OF THIS TITLE THAT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS IN TOTAL COST.

4. THE AUTHORITY SHALL ANNUALLY PROVIDE A REPORT TO THE STATE COMPTROLLER ON ANY AND ALL CONTRACTS OR ORDERS FOR WORK, MATERIALS OR SUPPLIES PERFORMED OR FURNISHED IN CONNECTION WITH CONSTRUCTION CONTRACTS AWARDED PURSUANT TO THIS SECTION.

5. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts, or orders for work, material or supplies performed or furnished in connection with construction shall be deemed state contracts within the meaning of that term as set forth in such article.

S 3. This act shall take effect immediately and shall expire and be deemed repealed ten years after such date.