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

1105--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO, CAHILL, SCHROEDER -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to allowing certain shared purchasing contracts among political subdivisions

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

Section 1. Section 103 of the general municipal law is amended by adding three new subdivisions 1-b, 1-c and 13 to read as follows:

1-B. WHEN THE OFFICER, BOARD OR AGENCY OF ANY POLITICAL SUBDIVISION OR OF ANY DISTRICT THEREIN CHARGED WITH THE AWARDING OF CONTRACTS UNDER THIS SECTION DETERMINES THAT IT IS IN THE BEST INTEREST OF THE POLITICAL SUBDIVISION OR DISTRICT THEREIN, SUCH OFFICER, BOARD OR AGENCY MAY AWARD CONTRACTS FOR SERVICES ON THE BASIS OF BEST VALUE AS DEFINED IN SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW TO RESPONSIVE AND RESPONSIBLE OFFERERS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A CONTRACT FOR SERVICES MAY BE AWARDED ON THE BASIS OF BEST VALUE PROVIDED THAT THE CONTRACTING PROCESS AND AWARD SHALL COMPLY WITH THE GUIDELINES ESTABLISHED UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW BY THE STATE PROCUREMENT COUNCIL. ANY PROCUREMENT MADE UNDER THIS SUBDIVISION SHALL BE APPROVED BY THE GOVERNING BODY OF THE PURCHASING POLITICAL SUBDIVISION OR DISTRICT THEREIN.

1-C. A POLITICAL SUBDIVISION OR ANY DISTRICT THEREIN SHALL HAVE THE OPTION OF PURCHASING INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS HARDWARE, SOFTWARE AND PROFESSIONAL SERVICES THROUGH COOPERATIVE PURCHASING PERMISSIBLE PURSUANT TO FEDERAL GENERAL SERVICES ADMINISTRATION INFORMATION TECHNOLOGY SCHEDULE SEVENTY OR ANY SUCCESSOR SCHEDULE. A POLITICAL SUBDIVISION OR ANY DISTRICT THEREIN THAT PURCHASES THROUGH GENERAL

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

LBD03548-05-0

SERVICES ADMINISTRATION SCHEDULE SEVENTY, INFORMATION TECHNOLOGY AND CONSOLIDATED SCHEDULE CONTRACTS SHALL COMPLY WITH FEDERAL SCHEDULE ORDERING PROCEDURES AS PROVIDED IN FEDERAL ACQUISITION REGULATION 8.405-1 OR 8.405-2 OR SUCCESSOR REGULATIONS, WHICHEVER IS APPLICABLE. ADHERENCE TO SUCH PROCEDURES SHALL CONSTITUTE COMPLIANCE WITH THE COMPETITIVE BIDDING REQUIREMENTS UNDER THIS SECTION.

13. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION AND IN ADDITION TO THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION AND SECTION ONE HUNDRED FOUR OF THIS ARTICLE, ANY OFFICER, BOARD OR AGENCY OF A POLITICAL SUBDIVISION OR OF ANY DISTRICT THEREIN AUTHORIZED TO MAKE PURCHASES OF MATERIALS, EQUIPMENT AND SUPPLIES MAY MAKE SUCH PURCHASES AS MAY BE REQUIRED BY SUCH POLITICAL SUBDIVISION OR ANY DISTRICT THEREIN THROUGH THE USE OF A CONTRACT LET BY ANY OTHER STATE OR POLITICAL SUBDIVISION IF SUCH CONTRACT WAS LET IN ACCORDANCE WITH COMPETITIVE BIDDING REQUIREMENTS THAT ARE CONSISTENT WITH THIS SECTION AND WITH THE INTENT OF EXTENDING ITS USE TO CERTAIN OTHER GOVERNMENTAL ENTITIES. PRIOR TO MAKING SUCH A PURCHASE, THE GOVERNING BOARD OF THE POLITICAL SUBDIVISION OR DISTRICT MAKING THE PURCHASE SHALL DETERMINE, UPON REVIEW OF ANY NECESSARY DOCUMENTATION AND, AS APPROPRIATE, UPON ADVICE OF ITS COUNSEL, THAT THE REQUIREMENTS OF THIS SUBDIVISION HAVE BEEN MET, AND SHALL CERTIFY, BY RESOLUTION, THAT SUCH PURCHASE IS PERMITTED UNDER THE PROCUREMENT POLICIES AND PROCEDURES OF THE POLITICAL SUBDIVISION OR DISTRICT, ADOPTED PURSUANT TO SECTION ONE HUNDRED FOUR-B OF THIS ARTICLE. FURTHERMORE, THE AUTHORITY PROVIDED TO POLITICAL SUBDIVISIONS AND DISTRICTS THEREIN UNDER THIS SUBDIVISION SHALL NOT RELIEVE ANY OBLIGATION OF SUCH POLITICAL SUBDIVISION OR DISTRICT THEREIN TO COMPLY WITH ANY APPLICABLE MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM MANDATES.

S 2. This act shall take effect immediately.