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

7114

2009-2010 Regular Sessions

I N A S S E M B L Y

March 20, 2009

Introduced by M. of A. McDONOUGH, FINCH, TOWNSEND -- Multi-Sponsored by -- M. of A. BURLING -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to establishing the local government procurement reform act of 2009

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

Section 1. This act shall be known and may be cited as the "local government procurement reform act of 2009".

S 2. The general municipal law is amended by adding a new section 100-b to read as follows:

S 100-B. CONTINUING EDUCATION AND TRAINING. 1. EACH LOCAL GOVERNMENT EMPLOYEE WITH PURCHASING OR PROCUREMENT RESPONSIBILITY SHALL BE REQUIRED TO ATTEND A MINIMUM OF TWENTY-FOUR HOURS OF CONTINUING EDUCATION EVERY TWO YEARS.

2. AS USED IN THIS SECTION, "ACCEPTABLE FORMAL CONTINUING EDUCATION" SHALL MEAN PROGRAMS OF LEARNING WHICH ARE SPONSORED OR PRESENTED BY A NATIONAL PURCHASING PROFESSIONAL ORGANIZATION OR HIGHER EDUCATIONAL INSTITUTION, AND WHICH MEET THE FOLLOWING CRITERIA: CONTAIN SUBJECT MATTER WHICH CONTRIBUTES TO THE ENHANCEMENT OF PROFESSIONAL PURCHASING SKILLS AND IS APPROVED AS ACCEPTABLE CONTINUING EDUCATION BY THE UNIVERSAL PUBLIC PURCHASING CERTIFICATION COUNCIL.

3. LOCAL GOVERNMENTS SHALL CERTIFY IN THEIR LOCAL PROCUREMENT POLICY AS REQUIRED BY SECTION ONE HUNDRED FOUR-B OF THIS ARTICLE AS TO HAVING SATISFIED THE MANDATORY CONTINUING EDUCATION REQUIREMENTS OF THIS SECTION, SHALL MAINTAIN ADEQUATE DOCUMENTATION OF COMPLETION OF ACCEPTABLE FORMAL CONTINUING EDUCATION AND SHALL PROVIDE SUCH DOCUMENTATION TO THE OFFICE OF THE STATE COMPTROLLER UPON REQUEST IN COURSE OF THE COMPTROLLER'S AUDITS OF LOCAL GOVERNMENT.

S 3. Subdivision 2 of section 104-b of the general municipal law is amended by adding a new paragraph h to read as follows:

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

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H. PROVIDE THE NAME AND TITLE OF THE INDIVIDUAL OR INDIVIDUALS RESPONSIBLE FOR ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE.

S 4. Subdivision 1 of section 103 of the general municipal law, as amended by chapter 741 of the laws of 2005, is amended to read as follows:

1. Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than [twenty] FIFTY thousand dollars and all purchase contracts involving an expenditure of more than [ten] TWENTY-FIVE thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein including but not limited to a soil conservation district, to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section. In any case where a responsible bidder's gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by a political subdivision, the gross price shall be reduced by the amount of such allowance, for the purpose of determining the low bid. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, such officer, board or agency may award the contract to any of such bidders. Such officer, board or agency may, in his or its discretion, reject all bids and readvertise for new bids in the manner provided by this section. For purposes of this section, "sealed bids", as that term applies to purchase contracts, shall include bids submitted in an electronic format, provided that the governing board of the political subdivision or district, by resolution, has authorized the receipt of bids in such format. Submission in electronic format may not, however, be required as the sole method for the submission of bids. Bids submitted in an electronic format shall be transmitted by bidders to the receiving device designated by the political subdivision or district. Any method used to receive electronic bids shall comply with article three of the state technology law, and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must (a) document the time and date of receipt of each bid received electronically; (b) authenticate the identity of the sender; (c) ensure the security of the information transmitted; and (d) ensure the confidentiality of the bid until the time and date established for the opening of bids. The timely submission of an electronic bid in compliance with instructions provided for such submission in the advertisement for bids and/or the specifications shall be the responsibility solely of each bidder or prospective bidder. No political subdivision or district therein shall incur any liability from delays or or interruptions in the receiving device designated for the submission and receipt of electronic bids.

S 5. Subdivision 1 of section 103 of the general municipal law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

1. Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than [twenty] FIFTY thousand dollars and all purchase contracts involving an expenditure of more than [ten] TWENTY-FIVE thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein including but not limited to a soil conservation district, to the lowest responsible

bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section. In any case where a responsible bidder's gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by a political subdivision, the gross price shall be reduced by the amount of such allowance, for the purpose of determining the low bid. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, such officer, board or agency may award the contract to any of such bidders. Such officer, board or agency may, in his or its discretion, reject all bids and readvertise for new bids in the manner provided by this section.

S 6. The general municipal law is amended by adding a new section 103-g to read as follows:

S 103-G. PURCHASING THROUGH OTHER COOPERATIVES. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED THREE OF THIS ARTICLE OR OF ANY OTHER GENERAL, SPECIAL OR LOCAL LAW, ANY OFFICER, BOARD OR AGENCY OF A POLITICAL SUBDIVISION, OF A DISTRICT THEREIN, OF A FIRE COMPANY OR OF A VOLUNTARY AMBULANCE SERVICE AUTHORIZED TO MAKE PURCHASES OF MATERIALS, EQUIPMENT, FOOD PRODUCTS, OR SUPPLIES, OR SERVICES, MAY MAKE SUCH PURCHASES THROUGH ANY OF THE FOLLOWING:

1. GENERAL SERVICES ADMINISTRATION SCHEDULE 70 CONTRACTS AND SUCH OTHER GENERAL SERVICES ADMINISTRATION SCHEDULES THAT THE FEDERAL GOVERNMENT MAY AUTHORIZE FOR LOCAL GOVERNMENT USE;

2. U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE CONTRACTS; OR

3. WESTERN STATES CONTRACTING ALLIANCE CONTRACTS.

PRIOR TO MAKING SUCH PURCHASES OR CONTRACTS THE OFFICER, BOARD OR AGENCY SHALL CONSIDER WHETHER SUCH CONTRACTS WILL RESULT IN COST SAVINGS AFTER ALL FACTORS, INCLUDING CHARGES FOR SERVICE, MATERIAL, AND DELIVERY HAVE BEEN CONSIDERED.

S 7. This act shall take effect on the sixtieth day after it shall have become a law; provided that the amendments to subdivision 1 of section 103 of the general municipal law made by section four of this act shall be subject to the expiration and reversion of such subdivision pursuant to subdivision (a) of section 41 of part X of chapter 62 of the laws of 2003, as amended, when upon such date the provisions of section five of this act shall take effect.