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2009-2010 Regular Sessions

I N A S S E M B L Y

May 14, 2009

Introduced by M. of A. DESTITO, GIANARIS, SCHROEDER, GALEF, EDDINGTON, LANCMAN, QUINN, DelMONTE, KOON, DenDEKKER, STIRPE, SPANO, LUPARDO, BRODSKY, CHRISTENSEN, MENG -- Multi-Sponsored by -- M. of A. COOK, DINOWITZ, GOTTFRIED, JOHN, MARKEY, McENENY, O'DONNELL, REILLY, WEISENBERG -- (at request of the Governor) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the economic development law, in relation to the availability of federal funding; and to amend the state finance law, in relation to governmental procurement and the purchase of iron, steel and manufactured goods produced in the United States

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

1 Section 1. Subdivision 2 of section 142 of the economic development
2 law, as added by chapter 564 of the laws of 1988, is amended by adding a
3 new paragraph (d) to read as follows:
4 (D) FOR THE AVAILABILITY OF FEDERAL FUNDING PROVIDED PURSUANT TO THE
5 FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009: (I) THE NAME OF
6 THE AGENCY SEEKING APPLICATIONS; (II) THE IDENTIFICATION NUMBER OR TITLE
7 OF THE FUNDING AVAILABILITY; (III) A BRIEF DESCRIPTION OF THE PURPOSES
8 OR ACTIVITY FOR WHICH FUNDING IS AVAILABLE, ANY RESTRICTIONS ON
9 LOCATIONS, AND THE DURATION OF THE FUNDING; (IV) THE ADDRESS TO WHICH
10 PROPOSALS ARE TO BE SUBMITTED; (V) THE DATE WHEN PROPOSALS ARE DUE; (VI)
11 A DESCRIPTION OF ANY ELIGIBILITY OR QUALIFICATION REQUIREMENT OR PREFER-
12 ENCE; (VII) A STATEMENT AS TO WHETHER THE PURPOSE OR ACTIVITY SPECIFIED
13 MAY BE FULFILLED BY A SUBCONTRACTING, JOINT VENTURE, OR OTHER COOPER-
14 ATIVE ARRANGEMENT; (VIII) ANY OTHER INFORMATION DEEMED USEFUL TO POTEN-
15 TIAL APPLICANTS; AND (IX) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
16 PERSON TO BE CONTACTED FOR ADDITIONAL INFORMATION.
17 S 2. Subdivision 2 of section 142 of the economic development law, as
18 amended by chapter 137 of the laws of 2008, is amended by adding a new
19 paragraph (d) to read as follows:
20 (D) FOR THE AVAILABILITY OF FEDERAL FUNDING PROVIDED PURSUANT TO THE
21 FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009: (I) THE NAME OF
22 THE AGENCY SEEKING APPLICATIONS; (II) THE IDENTIFICATION NUMBER OR TITLE

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

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1 OF THE FUNDING AVAILABILITY; (III) A BRIEF DESCRIPTION OF THE PURPOSES
2 OR ACTIVITY FOR WHICH FUNDING IS AVAILABLE, ANY RESTRICTIONS ON
3 LOCATIONS, AND THE DURATION OF THE FUNDING; (IV) THE ADDRESS TO WHICH
4 PROPOSALS ARE TO BE SUBMITTED; (V) THE DATE WHEN PROPOSALS ARE DUE; (VI)
5 A DESCRIPTION OF ANY ELIGIBILITY OR QUALIFICATION REQUIREMENT OR PREFER-
6 ENCE; (VII) A STATEMENT AS TO WHETHER THE PURPOSE OR ACTIVITY SPECIFIED
7 MAY BE FULFILLED BY A SUBCONTRACTING, JOINT VENTURE, OR OTHER COOPER-
8 ATIVE ARRANGEMENT; (VIII) ANY OTHER INFORMATION DEEMED USEFUL TO POTEN-
9 TIAL APPLICANTS; AND (IX) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
10 PERSON TO BE CONTACTED FOR ADDITIONAL INFORMATION.

11 S 3. Paragraph a of subdivision 2 of section 139-j of the state
12 finance law, as added by chapter 1 of the laws of 2005, is amended to
13 read as follows:

14 a. designate, with regard to each governmental procurement, a person
15 or persons who may be contacted by offerers relative to the governmental
16 procurement; ANY OTHER GOVERNMENTAL ENTITY INVOLVED IN THE PROCUREMENT
17 PROCESS MAY ALSO DESIGNATE A PERSON OR PERSONS WHO MAY BE CONTACTED
18 RELATIVE TO THE GOVERNMENTAL PROCUREMENT AS NECESSARY;

19 S 4. Clause (c) of subparagraph 7 of paragraph a of subdivision 3 of
20 section 139-j of the state finance law, as added by chapter 1 of the
21 laws of 2005, is amended to read as follows:

22 (c) [written] protests, appeals or complaints to the state comp-
23 troller's office during the process of contract approval, where the
24 state comptroller's approval is required by law[, and where such commu-
25 nications and any responses thereto are made in writing and]. THE STATE
26 COMPTROLLER SHALL MAKE A RECORD OF SUCH COMMUNICATIONS AND ANY RESPONSES
27 THERETO WHICH shall be entered [in] INTO the procurement record pursuant
28 to section one hundred sixty-three of [the state finance law] THIS CHAP-
29 TER; or

30 S 5. The state finance law is amended by adding a new section 164-a to
31 read as follows:

32 S 164-A. PURCHASE OF IRON, STEEL AND MANUFACTURED GOODS PRODUCED IN
33 THE UNITED STATES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO
34 PROJECT FOR THE CONSTRUCTION, ALTERATION, MAINTENANCE OR REPAIR OF A
35 PUBLIC BUILDING OR PUBLIC WORK USING FUNDS PROVIDED UNDER THE FEDERAL
36 AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 SHALL BE APPROVED UNLESS
37 ALL OF THE IRON, STEEL AND MANUFACTURED GOODS USED IN THE PROJECT ARE
38 PRODUCED IN THE UNITED STATES, EXCEPT WHERE THERE IS A DETAILED WRITTEN
39 STATEMENT BY THE HEAD OF THE FEDERAL DEPARTMENT OR AGENCY INVOLVED IN
40 THE PROVISION OF SUCH FUNDS IN THE FEDERAL REGISTER THAT:

41 (1) APPLYING THE TERMS OF THIS SECTION WOULD BE INCONSISTENT WITH THE
42 PUBLIC INTEREST;

43 (2) IRON, STEEL AND THE RELEVANT MANUFACTURED GOODS ARE NOT PRODUCED
44 IN THE UNITED STATES IN SUFFICIENT AND REASONABLY AVAILABLE QUANTITIES
45 AND OF A SATISFACTORY QUANTITY; OR

46 (3) INCLUSION OF IRON, STEEL AND MANUFACTURED GOODS PRODUCED IN THE
47 UNITED STATES WILL INCREASE THE COST OF THE OVERALL PROJECT BY MORE THAN
48 TWENTY-FIVE PERCENT.

49 S 6. This act shall take effect immediately; provided, however, that
50 the amendment to subdivision 2 of section 142 of the economic develop-
51 ment law made by section two of this act shall take effect on the same
52 date and in the same manner as chapter 137 of the laws of 2008 takes
53 effect; provided, further, that the amendments to section 139-j of the
54 state finance law made by sections three and four of this act shall not
55 affect the repeal of such section and shall be deemed repealed there-
56 with.