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

7440

I N S E N A T E

April 9, 2010

Introduced by Sen. AUBERTINE -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to transparent methods of subcontracting by general contractors who enter public work contracts with the New York state dormitory authority

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

Section 1. Section 1676-a of the public authorities law, as added by chapter 769 of the laws of 1978, is amended to read as follows:

S 1676-a. [Payment] CONTRACTS FOR AND PAYMENT on authority public work projects. 1. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded by the dormitory authority pursuant to this title shall be in accordance with section one hundred thirty-nine-f of the state finance law. For the purposes of this section, public work by the dormitory authority shall include but not be limited to the construction of dormitories and other related structures as defined in paragraph a of subdivision two of section sixteen hundred seventy-six of this title, boards of cooperative educational services as defined in paragraph d of subdivision two of section sixteen hundred seventy-six of this title, locally sponsored community colleges as defined in subdivision seven of section sixteen hundred seventy-six of this title, and the city university as defined in subdivision eight of section sixteen hundred seventy-six of this title.

2. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW TO THE CONTRARY, EACH BIDDER ON A PUBLIC WORK CONTRACT, WHERE THE PREPARATION OF SEPARATE SPECIFICATIONS IS NOT REQUIRED, SHALL SUBMIT WITH ITS BID A SEPARATE SEALED LIST THAT NAMES EACH SUBCONTRACTOR THAT THE BIDDER WILL USE TO PERFORM WORK ON THE CONTRACT, AND THE AGREED-UPON AMOUNT TO BE PAID TO EACH FOR: (I) PLUMBING AND GAS FITTING, (II) STEAM HEATING, HOT WATER HEATING, VENTILATING AND AIR CONDITIONING APPARATUS AND (III) ELECTRIC WIRING AND STANDARD ILLUMINATING FIXTURES. AFTER THE LOW BID IS ANNOUNCED, THE SEALED LIST OF SUBCONTRACTORS SUBMITTED WITH SUCH LOW BID SHALL BE OPENED AND THE NAMES OF SUCH SUBCONTRACTORS SHALL BE ANNOUNCED, AND THEREAFTER ANY CHANGE OF SUBCONTRACTOR OR AGREED-UPON AMOUNT TO BE PAID TO EACH SHALL REQUIRE APPROVAL OF THE PUBLIC OWNER, UPON A SHOWING PRESENTED TO THE PUBLIC OWNER OF LEGITIMATE CONSTRUCTION NEED FOR SUCH

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

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CHANGE, WHICH SHALL BE OPEN TO PUBLIC INSPECTION. LEGITIMATE CONSTRUCTION NEED SHALL BE LIMITED TO, A CHANGE IN PROJECT SPECIFICATIONS, A CHANGE IN CONSTRUCTION MATERIAL COSTS, A CHANGE TO SUBCONTRACTOR STATUS AS DETERMINED PURSUANT TO PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR LAW, OR THE SUBCONTRACTOR HAS BECOME OTHERWISE UNWILLING, UNABLE OR UNAVAILABLE TO PERFORM THE SUBCONTRACT. THE SEALED LISTS OF SUBCONTRACTORS SUBMITTED BY ALL OTHER BIDDERS SHALL BE RETURNED TO THEM UNOPENED AFTER THE CONTRACT AWARD.

S 2. Subdivision 8 of section 1678 of the public authorities law, as amended by chapter 251 of the laws of 1962, is amended to read as follows:

8. IN CONNECTION WITH PUBLIC WORK CONTRACTS:

(A) By contract or contracts or by its own employees to construct, acquire, reconstruct, rehabilitate and improve, and furnish and equip, dormitories and necessary and usual attendant facilities for state-operated institutions and statutory and contract colleges under the jurisdiction of the state university of New York pursuant to agreement with the state university construction fund created by section three hundred seventy-one of the education law.

(B) PRIOR TO CONTRACT AWARD, TO ENSURE THAT EACH BIDDER ON A PUBLIC WORK CONTRACT, WHERE THE PREPARATION OF SEPARATE SPECIFICATIONS IS NOT REQUIRED, SUBMIT WITH ITS BID A SEPARATE SEALED LIST THAT NAMES EACH SUBCONTRACTOR THAT THE BIDDER WILL USE TO PERFORM WORK ON THE CONTRACT, AND THE AGREED-UPON AMOUNT TO BE PAID TO EACH, FOR: (I) PLUMBING AND GAS FITTING, (II) STEAM HEATING, HOT WATER HEATING, VENTILATING AND AIR CONDITIONING APPARATUS AND (III) ELECTRIC WIRING STANDARD ILLUMINATING FIXTURES. AFTER THE LOW BID IS ANNOUNCED, THE SEALED LIST OF SUBCONTRACTORS SUBMITTED WITH SUCH LOW BID SHALL BE OPENED AND THE NAMES OF SUCH SUBCONTRACTORS SHALL BE ANNOUNCED, AND THEREAFTER ANY CHANGE OF SUBCONTRACTOR OR AGREED-UPON AMOUNT TO BE PAID TO EACH SHALL REQUIRE THE APPROVAL OF THE PUBLIC OWNER, UPON A SHOWING PRESENTED TO THE PUBLIC OWNER OF LEGITIMATE CONSTRUCTION NEED FOR SUCH CHANGE, WHICH SHALL BE OPEN TO PUBLIC INSPECTION. LEGITIMATE CONSTRUCTION NEED SHALL BE LIMITED TO, A CHANGE IN PROJECT SPECIFICATIONS, A CHANGE IN CONSTRUCTION MATERIAL COSTS, A CHANGE TO SUBCONTRACTOR STATUS AS DETERMINED PURSUANT TO PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR LAW, OR THE SUBCONTRACTOR HAS BECOME OTHERWISE UNWILLING, UNABLE OR UNAVAILABLE TO PERFORM THE SUBCONTRACT. THE SEALED LISTS OF SUBCONTRACTORS SUBMITTED BY ALL OTHER BIDDERS SHALL BE RETURNED TO THEM UNOPENED AFTER THE CONTRACT AWARD.

(C) TO SELL, CONVEY, LEASE, SUBLEASE OR OTHERWISE TRANSFER ANY REAL PROPERTY OR INTEREST THEREIN HELD BY THE AUTHORITY TO ANY PERSON, FIRM, ASSOCIATION, CORPORATION OR AGENCY, INCLUDING A PUBLIC BODY, FOR THE PURPOSE OF CONSTRUCTING OR OTHERWISE PROVIDING THEREON A STRUCTURE, PROVIDED THAT, SIMULTANEOUSLY THEREWITH, THE AUTHORITY ENTERS INTO AN AGREEMENT FOR THE RECONVEYANCE, PURCHASE, LEASE, SUBLEASE OR OTHER ACQUISITION OF THE FACILITIES TO BE CONTAINED IN SUCH STRUCTURES.

ANY CONTRACT UNDERTAKEN OR FINANCED BY THE DORMITORY AUTHORITY FOR ANY CONSTRUCTION, RECONSTRUCTION, REHABILITATION OR IMPROVEMENT FOR ANY FACILITIES OR COMBINED OCCUPANCY STRUCTURES SHALL COMPLY WITH THE PROVISIONS OF SECTION ONE HUNDRED ONE AND ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, AND SECTION TWO HUNDRED TWENTY OF THE LABOR LAW;

S 3. This act shall take effect on the sixtieth day after it shall have become a law.