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

2405

2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

Introduced by M. of A. DESTITO, BRENNAN, MARKEY -- Multi-Sponsored by -- M. of A. CAHILL, COOK, MAGEE, REILLY, J. RIVERA -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to specifying the approach to be used for combining technical and financial evaluation results in the competitive procurement process and setting forth information with particularity

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

Section 1. Paragraphs a and b of subdivision 9 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, are amended to read as follows:

a. The commissioner or a state agency shall select a formal competitive procurement process in accordance with guidelines established by the state procurement council and document its determination in the procurement record. The process shall include, but is not limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal opportunity for offerers to submit responsive offers; and a balanced and fair method of award. Where the basis for the award is best value, documentation in the procurement record shall, where practicable, include a quantification of the application of the criteria to the rating of proposals and the evaluation results *AND THE APPROACH TO BE USED FOR COMBINING TECHNICAL AND FINANCIAL EVALUATION RESULTS*, or, where not practicable, such other justification which demonstrates that best value will be achieved. *EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, THE INFORMATION REQUIRED BY THIS PARAGRAPH SHALL BE SET FORTH WITH PARTICULARITY.*

b. The solicitation shall prescribe the minimum specifications or requirements that must be met in order to be considered responsive and shall describe and disclose *AT LEAST* the general manner in which the

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

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evaluation and selection shall be conducted. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion AND THE APPROACH TO BE USED FOR COMBINING TECHNICAL AND FINANCIAL EVALUATION RESULTS to be considered by a state agency in its determination of best value. EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, THE INFORMATION REQUIRED BY THIS PARAGRAPH SHALL BE SET FORTH WITH PARTICULARITY.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date; and provided further, however, that the amendments to paragraphs a and b of subdivision 9 of section 163 of the state finance law made by section one of this act shall not affect the repeal of such section as provided in subdivision 5 of section 362 of chapter 83 of the laws of 1995, as from time to time amended, and shall be deemed repealed therewith.