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

3153

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. CALHOUN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state finance law, in relation to creating criteria for the selection of certain state contracts

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

Section 1. Paragraph a of subdivision 10 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

a. Selection and award shall be a written determination in the procurement record made by the commissioner or a state agency in a manner consistent with the provisions of the solicitation. In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient or, when price and other factors are found to be substantially equivalent, the determination of the commissioner or agency head to award a contract to one or more of such bidders shall be final. IN SUCH CASE, A TIE BETWEEN TWO BIDDERS WHOSE BIDS ARE FOUND TO BE SUBSTANTIALLY EQUIVALENT WILL BE BROKEN ACCORDING TO THE FOLLOWING METHODS, IN DESCENDING ORDER:

(A) IN-STATE BUSINESS;

(B) SMALL BUSINESS OR CERTIFIED MWBE;

(C) AWARD ITEM OR ITEMS TO VENDOR WHO WAS LOW VENDOR ON OTHER ITEM OR ITEMS BEING BID PER THE SAME REQUISITION;

(D) BEST DELIVERY;

(E) CONTINUITY OF AN EXITING BUSINESS RELATIONSHIP;

(F) BY LOT OR COIN TOSS.

The basis for determining the award shall be documented in the procurement record.

S 2. This act shall take effect immediately, provided, however, that the amendments to paragraph a of subdivision 10 of section 163 of the state finance law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

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

LBD02845-01-1