

3890

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 28, 2011

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Introduced by M. of A. FINCH, KOLB, KATZ -- Multi-Sponsored by -- M. of  
A. CROUCH -- read once and referred to the Committee on Local Govern-  
ments

AN ACT to amend the general municipal law, in relation to authorizing  
the city of Auburn to prefer businesses located in the county of Cayu-  
ga in awarding public contracts

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

1     Section 1. Subdivision 1 of section 103 of the general municipal law,  
2     as amended by section 1 of part FF of chapter 56 of the laws of 2010, is  
3     amended to read as follows:  
4     1. Except as otherwise expressly provided by an act of the legislature  
5     or by a local law adopted prior to September first, nineteen hundred  
6     fifty-three, all contracts for public work involving an expenditure of  
7     more than thirty-five thousand dollars and all purchase contracts  
8     involving an expenditure of more than twenty thousand dollars, shall be  
9     awarded by the appropriate officer, board or agency of a political  
10    subdivision or of any district therein including but not limited to a  
11    soil conservation district, to the lowest responsible bidder furnishing  
12    the required security after advertisement for sealed bids in the manner  
13    provided by this section; PROVIDED, HOWEVER, THAT IN THE CITY OF AUBURN,  
14    FOR PUBLIC WORKS AND PURCHASE CONTRACTS UP TO ONE HUNDRED THOUSAND  
15    DOLLARS, SUCH CONTRACTS MAY BE AWARDED TO THE RESPONSIBLE BIDDER WHOSE  
16    BID IS WITHIN FIVE PERCENT OF THE BID OF THE LOWEST RESPONSIBLE BIDDER  
17    AND IF THE PRINCIPAL PLACE OF BUSINESS OF SUCH BIDDER IS LOCATED WITHIN  
18    THE COUNTY OF CAYUGA. In any case where a responsible bidder's gross  
19    price is reducible by an allowance for the value of used machinery,  
20    equipment, apparatus or tools to be traded in by a political subdivi-  
21    sion, the gross price shall be reduced by the amount of such allowance,  
22    for the purpose of determining the low bid. In cases where two or more  
23    responsible bidders furnishing the required security submit identical

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

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1 bids as to price, such officer, board or agency may award the contract  
2 to any of such bidders. Such officer, board or agency may, in his or her  
3 or its discretion, reject all bids and readvertise for new bids in the  
4 manner provided by this section. In determining whether a purchase is an  
5 expenditure within the discretionary threshold amounts established by  
6 this subdivision, the officer, board or agency of a political subdivi-  
7 sion or of any district therein shall consider the reasonably expected  
8 aggregate amount of all purchases of the same commodities, services or  
9 technology to be made within the twelve-month period commencing on the  
10 date of purchase. Purchases of commodities, services or technology  
11 shall not be artificially divided for the purpose of satisfying the  
12 discretionary buying thresholds established by this subdivision. A  
13 change to or a renewal of a discretionary purchase shall not be permit-  
14 ted if the change or renewal would bring the reasonably expected aggre-  
15 gate amount of all purchases of the same commodities, services or tech-  
16 nology from the same provider within the twelve-month period commencing  
17 on the date of the first purchase to an amount greater than the discre-  
18 tionary buying threshold amount. For purposes of this section, "sealed  
19 bids", as that term applies to purchase contracts, shall include bids  
20 submitted in an electronic format including submission of the statement  
21 of non-collusion required by section one hundred three-d of this arti-  
22 cle, provided that the governing board of the political subdivision or  
23 district, by resolution, has authorized the receipt of bids in such  
24 format. Submission in electronic format may, for technology contracts  
25 only, be required as the sole method for the submission of bids. Bids  
26 submitted in an electronic format shall be transmitted by bidders to the  
27 receiving device designated by the political subdivision or district.  
28 Any method used to receive electronic bids shall comply with article  
29 three of the state technology law, and any rules and regulations promul-  
30 gated and guidelines developed thereunder and, at a minimum, must (a)  
31 document the time and date of receipt of each bid received electron-  
32 ically; (b) authenticate the identity of the sender; (c) ensure the  
33 security of the information transmitted; and (d) ensure the confiden-  
34 tiality of the bid until the time and date established for the opening  
35 of bids. The timely submission of an electronic bid in compliance with  
36 instructions provided for such submission in the advertisement for bids  
37 and/or the specifications shall be the responsibility solely of each  
38 bidder or prospective bidder. No political subdivision or district ther-  
39 ein shall incur any liability from delays of or interruptions in the  
40 receiving device designated for the submission and receipt of electronic  
41 bids.

42 S 2. Subdivision 1 of section 103 of the general municipal law, as  
43 amended by section 2 of part FF of chapter 56 of the laws of 2010, is  
44 amended to read as follows:

45 1. Except as otherwise expressly provided by an act of the legislature  
46 or by a local law adopted prior to September first, nineteen hundred  
47 fifty-three, all contracts for public work involving an expenditure of  
48 more than thirty-five thousand dollars and all purchase contracts  
49 involving an expenditure of more than twenty thousand dollars, shall be  
50 awarded by the appropriate officer, board or agency of a political  
51 subdivision or of any district therein including but not limited to a  
52 soil conservation district, to the lowest responsible bidder furnishing  
53 the required security after advertisement for sealed bids in the manner  
54 provided by this section. In determining whether a purchase is an  
55 expenditure within the discretionary threshold amounts established by  
56 this subdivision, the officer, board or agency of a political subdivi-

1 sion or of any district therein shall consider the reasonably expected  
2 aggregate amount of all purchases of the same commodities, services or  
3 technology to be made within the twelve-month period commencing on the  
4 date of purchase. Purchases of commodities, services or technology shall  
5 not be artificially divided for the purpose of satisfying the discre-  
6 tionary buying thresholds established by this subdivision. A change to  
7 or a renewal of a discretionary purchase shall not be permitted if the  
8 change or renewal would bring the reasonably expected aggregate amount  
9 of all purchases of the same commodities, services or technology from  
10 the same provider within the twelve-month period commencing on the date  
11 of the first purchase to an amount greater than the discretionary buying  
12 threshold amount. In any case where a responsible bidder's gross price  
13 is reducible by an allowance for the value of used machinery, equipment,  
14 apparatus or tools to be traded in by a political subdivision, the gross  
15 price shall be reduced by the amount of such allowance, for the purpose  
16 of determining the low bid. In cases where two or more responsible  
17 bidders furnishing the required security submit identical bids as to  
18 price, such officer, board or agency may award the contract to any of  
19 such bidders. Such officer, board or agency may, in his, her or its  
20 discretion, reject all bids and readvertise for new bids in the manner  
21 provided by this section; PROVIDED, HOWEVER, THAT IN THE CITY OF AUBURN,  
22 FOR PUBLIC WORKS AND PURCHASE CONTRACTS UP TO ONE HUNDRED THOUSAND  
23 DOLLARS, SUCH CONTRACTS MAY BE AWARDED TO THE RESPONSIBLE BIDDER WHOSE  
24 BID IS WITHIN FIVE PERCENT OF THE BID OF THE LOWEST RESPONSIBLE BIDDER  
25 AND IF THE PRINCIPAL PLACE OF BUSINESS OF SUCH BIDDER IS LOCATED WITHIN  
26 THE COUNTY OF CAYUGA.

27 S 3. This act shall take effect immediately, provided that the amend-  
28 ments to subdivision 1 of section 103 of the general municipal law made  
29 by section one of this act shall be subject to the expiration and rever-  
30 sion of such subdivision pursuant to subdivision (a) of section 41 of  
31 part X of chapter 62 of the laws of 2003, as amended, when upon such  
32 date the provisions of section two of this act shall take effect.