

820

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GANTT -- read once and referred to the Committee
on Local Governments

AN ACT to amend the general municipal law, in relation to giving the
city of Rochester the power to prefer minority and women-owned busi-
nesses 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. In any case where a responsible bidder's gross
14 price is reducible by an allowance for the value of used machinery,
15 equipment, apparatus or tools to be traded in by a political subdivi-
16 sion, the gross price shall be reduced by the amount of such allowance,
17 for the purpose of determining the low bid. In cases where two or more
18 responsible bidders furnishing the required security submit identical
19 bids as to price, such officer, board or agency may award the contract
20 to any of such bidders. Such officer, board or agency may, in his or her
21 or its discretion, reject all bids and readvertise for new bids in the
22 manner provided by this section; PROVIDED, HOWEVER, THAT IN THE CITY OF
23 ROCHESTER, FOR PUBLIC WORKS AND PURCHASE CONTRACTS UP TO ONE HUNDRED

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

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1 THOUSAND DOLLARS, SUCH CONTRACTS MAY BE AWARDED TO THE RESPONSIBLE
2 BIDDER WHOSE BID IS WITHIN FIVE PERCENT OF THE BID OF THE LOWEST RESPON-
3 SIBLE BIDDER, IF THE PRINCIPAL PLACE OF BUSINESS OF SUCH BIDDER IS
4 LOCATED WITHIN THE ROCHESTER METROPOLITAN STATISTICAL AREA, SUCH BIDDER
5 IS CERTIFIED BY THE STATE OF NEW YORK AS A MINORITY OR WOMEN-OWNED BUSI-
6 NESS AND SUCH AWARD IS MADE PURSUANT TO A MINORITY/WOMEN BUSINESS ENTER-
7 PRISE PROGRAM LAWFULLY ADOPTED BY THE CITY OF ROCHESTER. In determining
8 whether a purchase is an expenditure within the discretionary threshold
9 amounts established by this subdivision, the officer, board or agency of
10 a political subdivision or of any district therein shall consider the
11 reasonably expected aggregate amount of all purchases of the same
12 commodities, services or technology to be made within the twelve-month
13 period commencing on the date of purchase. Purchases of commodities,
14 services or technology shall not be artificially divided for the purpose
15 of satisfying the discretionary buying thresholds established by this
16 subdivision. A change to or a renewal of a discretionary purchase shall
17 not be permitted if the change or renewal would bring the reasonably
18 expected aggregate amount of all purchases of the same commodities,
19 services or technology from the same provider within the twelve-month
20 period commencing on the date of the first purchase to an amount greater
21 than the discretionary buying threshold amount. For purposes of this
22 section, "sealed bids", as that term applies to purchase contracts,
23 shall include bids submitted in an electronic format including
24 submission of the statement of non-collusion required by section one
25 hundred three-d of this article, provided that the governing board of
26 the political subdivision or district, by resolution, has authorized the
27 receipt of bids in such format. Submission in electronic format may,
28 for technology contracts only, be required as the sole method for the
29 submission of bids. Bids submitted in an electronic format shall be
30 transmitted by bidders to the receiving device designated by the poli-
31 tical subdivision or district. Any method used to receive electronic
32 bids shall comply with article three of the state technology law, and
33 any rules and regulations promulgated and guidelines developed there-
34 under and, at a minimum, must (a) document the time and date of receipt
35 of each bid received electronically; (b) authenticate the identity of
36 the sender; (c) ensure the security of the information transmitted; and
37 (d) ensure the confidentiality of the bid until the time and date estab-
38 lished for the opening of bids. The timely submission of an electronic
39 bid in compliance with instructions provided for such submission in the
40 advertisement for bids and/or the specifications shall be the responsi-
41 bility solely of each bidder or prospective bidder. No political subdi-
42 vision or district therein shall incur any liability from delays of or
43 interruptions in the receiving device designated for the submission and
44 receipt of electronic bids.

45 S 2. This act shall take effect immediately; provided, however, that
46 the amendments to subdivision 1 of section 103 of the general municipal
47 law made by section one of this act shall not affect the expiration of
48 such subdivision and shall be deemed to expire therewith.