

4625

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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
24 bids as to price, such officer, board or agency may award the contract

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

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

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

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

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

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