

4810

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 11, 2013

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Introduced by M. of A. ABBATE -- read once and referred to the Committee  
on Labor

AN ACT to amend the labor law, the state finance law and the general  
municipal law, in relation to labor performed under certain public  
work contracts

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

1     Section 1. Subdivision 5 of section 220 of the labor law is amended by  
2     adding a new paragraph m to read as follows:  
3     M. "JOB ORDER CONTRACT" SHALL MEAN A COMPETITIVE BID, INDEFINITE QUAN-  
4     TITY, FIXED PRICE, MULTI-TASK CONTRACT, WHERE A BASE CONTRACT IS AWARDED  
5     WITH PRE-ESTABLISHED TASKS AND PRICES, SPECIFICATIONS AND GENERAL  
6     CONTRACT CONDITIONS. CONTRACTORS ARE PERMITTED TO BID BY SUBMITTING A  
7     COEFFICIENT OR COEFFICIENTS FOR A JOB ORDER CONTRACT BASED ON A UNIT  
8     PRICE BOOK, WHICH CONTAINS A LIST OF ALL TASKS THAT MAY BE PERFORMED AS  
9     PART OF THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT. SUCH  
10    CONTRACTS MUST BE FILED WITH THE COMMISSIONER BY THE DEPARTMENT OF  
11    JURISDICTION AND MUST EXPRESSLY STATE THAT ALL WORK PERFORMED UNDER SUCH  
12    CONTRACT IS PURSUANT TO THIS SECTION.  
13    S 2. The state finance law is amended by adding a new section 148 to  
14    read as follows:  
15    S 148. JOB ORDER CONTRACTS. 1. "JOB ORDER CONTRACT", SHALL HAVE THE  
16    SAME MEANING AS SET FORTH IN PARAGRAPH M OF SUBDIVISION FIVE OF SECTION  
17    TWO HUNDRED TWENTY OF THE LABOR LAW.  
18    2. THE JOB ORDER CONTRACT MUST HAVE A DEFINED SCOPE OF WORK, WHICH  
19    INCLUDES:  
20    A. A LIMITATION TO ONE OF THE GEOGRAPHIC REGIONS COMMONLY REFERRED TO  
21    AS THE CAPITAL DISTRICT, MOHAWK VALLEY, HUDSON VALLEY, CENTRAL NEW YORK,  
22    FINGER LAKES, WESTERN NEW YORK, SOUTHERN TIER, NORTH COUNTRY, LONG  
23    ISLAND OR NEW YORK CITY;

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

LBD08603-01-3

1 B. IDENTIFICATION OF TRADES RELEVANT FOR THE SPECIFIC SCOPE OF WORK  
2 TO BE PERFORMED, INCLUDING BUT NOT LIMITED TO:

- 3 (I) BASIC TRADES, INCLUDING CARPENTERS, LABORERS AND BRICKLAYERS,  
4 (II) PLUMBING AND GAS FITTING,  
5 (III) STEAM HEATING, HOT WATER HEATING, VENTILATING AND AIR CONDITION-  
6 ING APPARATUS,  
7 (IV) ELECTRIC WIRING AND STANDARD ILLUMINATING FIXTURES,  
8 (V) ROOFING,  
9 (VI) WELDING,  
10 (VII) IRONWORK,  
11 (VIII) CONCRETE FINISHING, OR  
12 (IX) PAINTING AND PLASTERING; AND

13 C. A DETAILED DESCRIPTION OF THE WORK TO BE PERFORMED UNDER THE BASE  
14 CONTRACT, A LIST OF THE TASKS NECESSARY TO COMPLETE THE WORK TO BE  
15 PERFORMED UNDER THE BASE CONTRACT AND THE TRADE CLASSIFICATIONS OF THE  
16 WORKERS, MECHANICS AND LABORERS WHO WILL PERFORM EACH OF THE LISTED  
17 TASKS IN THE BASE CONTRACT.

18 3. THE DEFINED SCOPE OF WORK TO BE PERFORMED UNDER THE BASE CONTRACT  
19 MUST NOT BE OVERLY BROAD SO AS TO PREVENT THE CONTRACTOR FROM MAKING AN  
20 INFORMED BID DURING THE COMPETITIVE BID PROCESS. THE CONTRACTING ENTITY  
21 MUST LIMIT THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT TO THOSE  
22 PRE-ESTABLISHED TASKS AND PRICES REFERRED TO IN THE GENERAL CONTRACT  
23 CONDITIONS.

24 4. BEFORE SOLICITING BIDS FOR THE BASE CONTRACT, THE CONTRACTING ENTI-  
25 TY SHALL FILE ALL INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH  
26 A OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW  
27 WITH THE FISCAL OFFICER. THE CONTRACTING ENTITY MAY NOT SOLICIT BIDS FOR  
28 THE CONTRACT UNTIL ALL REQUIREMENTS OF SUBPARAGRAPH (I) OF PARAGRAPH A  
29 OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW  
30 HAVE BEEN SATISFIED.

31 5. THE COST OF A JOB ORDER CONTRACT MAY NOT EXCEED FIVE HUNDRED THOU-  
32 SAND DOLLARS. SUCH CONTRACT IS LIMITED TO ONE YEAR AND MAY BE RENEWED  
33 FOR AN ADDITIONAL TWELVE MONTHS TWICE SO LONG AS THE FIVE HUNDRED THOU-  
34 SAND DOLLAR THRESHOLD HAS NOT BEEN REACHED. IT IS IMPERMISSIBLE TO  
35 SUBDIVIDE A CONTRACT INTO SEPARATE CONTRACTS IN ORDER TO MEET THE  
36 REQUIREMENTS OF THIS SUBDIVISION. THE RESTRICTIONS IN THIS SUBDIVISION  
37 SHALL NOT APPLY WHERE THE PUBLIC OWNER REQUIRES A PROJECT LABOR AGREE-  
38 MENT CONSISTENT WITH PROVISIONS OF SECTION TWO HUNDRED TWENTY-TWO OF THE  
39 LABOR LAW.

40 6. THE JOB ORDER CONTRACT AND ALL SUBCONTRACTS ASSOCIATED WITH SUCH  
41 JOB ORDER CONTRACT MUST EXPRESSLY STATE THAT ALL WORK PERFORMED UNDER  
42 SUCH CONTRACTS IS PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE LABOR  
43 LAW.

44 7. THESE REQUIREMENTS APPLY TO ALL JOB ORDER CONTRACTS ISSUED BY A  
45 STATE AGENCY, AS DEFINED BY SUBDIVISION THREE OF SECTION TWO-A OF THIS  
46 CHAPTER, A COVERED AUTHORITY, AS DEFINED BY SUBDIVISION SIX OF SECTION  
47 TWO-A OF THIS CHAPTER, THE NEW YORK CITY HOUSING AUTHORITY, ESTABLISHED  
48 UNDER TITLE ONE OF ARTICLE THIRTEEN OF THE PUBLIC HOUSING LAW, AND THE  
49 NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY, ESTABLISHED UNDER TITLE SIX  
50 OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW. ALL SUCH ENTITIES MUST  
51 LIMIT ASSIGNMENT UNDER CONTRACTS ISSUED PURSUANT TO THIS SECTION TO A  
52 MINORITY PORTION OF ITS ANNUAL CAPITAL BUDGET, IF SUCH BUDGET EXISTS.

53 8. IF AN ENTITY DESCRIBED IN SUBDIVISION SEVEN OF THIS SECTION SEEKS A  
54 THIRD PARTY CONSULTANT TO ASSIST, IN ANY MANNER, WITH THE BIDDING AND/OR  
55 IMPLEMENTATION OF A JOB ORDER CONTRACT, SUCH THIRD PARTY CONSULTANT MUST  
56 BE SELECTED PURSUANT TO A COMPETITIVE BID PROCESS.

1 S 3. The general municipal law is amended by adding a new section  
2 103-h to read as follows:

3 S 103-H. JOB ORDER CONTRACTS. 1. "JOB ORDER CONTRACT", SHALL HAVE THE  
4 SAME MEANING AS SET FORTH IN PARAGRAPH M OF SUBDIVISION FIVE OF SECTION  
5 TWO HUNDRED TWENTY OF THE LABOR LAW.

6 2. THE JOB ORDER CONTRACT MUST HAVE A DEFINED SCOPE OF WORK, WHICH  
7 INCLUDES:

8 A. A LIMITATION TO ONE OF THE GEOGRAPHIC REGIONS COMMONLY REFERRED TO  
9 AS THE CAPITAL DISTRICT, MOHAWK VALLEY, HUDSON VALLEY, CENTRAL NEW YORK,  
10 FINGER LAKES, WESTERN NEW YORK, SOUTHERN TIER, NORTH COUNTRY, LONG  
11 ISLAND OR NEW YORK CITY;

12 B. IDENTIFICATION OF TRADES RELEVANT FOR THE SPECIFIC SCOPE OF WORK  
13 TO BE PERFORMED, INCLUDING BUT NOT LIMITED TO:

14 (I) BASIC TRADES, INCLUDING CARPENTERS, LABORERS AND BRICKLAYERS,

15 (II) PLUMBING AND GAS FITTING,

16 (III) STEAM HEATING, HOT WATER HEATING, VENTILATING AND AIR CONDITION-  
17 ING APPARATUS,

18 (IV) ELECTRIC WIRING AND STANDARD ILLUMINATING FIXTURES,

19 (V) ROOFING,

20 (VI) WELDING,

21 (VII) IRONWORK,

22 (VIII) CONCRETE FINISHING, OR

23 (IX) PAINTING AND PLASTERING; AND

24 C. A DETAILED DESCRIPTION OF THE WORK TO BE PERFORMED UNDER THE BASE  
25 CONTRACT, A LIST OF THE TASKS NECESSARY TO COMPLETE THE WORK TO BE  
26 PERFORMED UNDER THE BASE CONTRACT AND THE TRADE CLASSIFICATIONS OF THE  
27 WORKERS, MECHANICS AND LABORERS WHO WILL PERFORM EACH OF THE LISTED  
28 TASKS IN THE BASE CONTRACT.

29 3. THE DEFINED SCOPE OF WORK TO BE PERFORMED UNDER THE BASE CONTRACT  
30 MUST NOT BE OVERLY BROAD SO AS TO PREVENT THE CONTRACTOR FROM MAKING AN  
31 INFORMED BID DURING THE COMPETITIVE BID PROCESS. THE CONTRACTING ENTITY  
32 MUST LIMIT THE WORK TO BE PERFORMED UNDER THE BASE CONTRACT TO THOSE  
33 PRE-ESTABLISHED TASKS AND PRICES REFERRED TO IN THE GENERAL CONTRACT  
34 CONDITIONS.

35 4. BEFORE SOLICITING BIDS FOR THE BASE CONTRACT, THE CONTRACTING ENTI-  
36 TY SHALL FILE ALL INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF PARAGRAPH  
37 A OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE LABOR LAW  
38 WITH THE FISCAL OFFICER. THE CONTRACTING ENTITY MAY NOT SOLICIT BIDS FOR  
39 THE BASE CONTRACT UNTIL ALL REQUIREMENTS OF SUBPARAGRAPH (I) OF PARA-  
40 GRAPH A OF SUBDIVISION THREE-A OF SECTION TWO HUNDRED TWENTY OF THE  
41 LABOR LAW HAVE BEEN SATISFIED.

42 5. THE COST OF A JOB ORDER CONTRACT MAY NOT EXCEED FIVE HUNDRED THOU-  
43 SAND DOLLARS. SUCH CONTRACT IS LIMITED TO ONE YEAR AND MAY BE RENEWED  
44 FOR AN ADDITIONAL TWELVE MONTHS TWICE SO LONG AS THE FIVE HUNDRED THOU-  
45 SAND DOLLAR THRESHOLD HAS NOT BEEN REACHED. IT IS IMPERMISSIBLE TO  
46 SUBDIVIDE A CONTRACT INTO SEPARATE CONTRACTS IN ORDER TO MEET THE  
47 REQUIREMENTS OF THIS SUBDIVISION. THE RESTRICTIONS IN THIS SUBDIVISION  
48 SHALL NOT APPLY WHERE THE PUBLIC OWNER REQUIRES A PROJECT LABOR AGREE-  
49 MENT CONSISTENT WITH PROVISIONS OF SECTION TWO HUNDRED TWENTY-TWO OF THE  
50 LABOR LAW.

51 6. THE JOB ORDER CONTRACT AND ALL SUBCONTRACTS ASSOCIATED WITH SUCH  
52 JOB ORDER CONTRACT MUST EXPRESSLY STATE THAT ALL WORK PERFORMED UNDER  
53 SUCH CONTRACTS IS PURSUANT TO SECTION TWO HUNDRED TWENTY OF THE LABOR  
54 LAW.

55 7. THESE REQUIREMENTS APPLY TO ALL POLITICAL SUBDIVISIONS. ALL SUCH  
56 POLITICAL SUBDIVISIONS MUST LIMIT ASSIGNMENTS UNDER CONTRACTS ISSUED

1 PURSUANT TO THIS SECTION TO A MINORITY PORTION OF ITS ANNUAL CAPITAL  
2 BUDGET, IF SUCH BUDGET EXISTS.

3 8. IF A POLITICAL SUBDIVISION SEEKS A THIRD PARTY CONSULTANT TO  
4 ASSIST, IN ANY MANNER, WITH THE BIDDING AND/OR IMPLEMENTATION OF A JOB  
5 ORDER CONTRACT, SUCH THIRD PARTY CONSULTANT MUST BE SELECTED PURSUANT TO  
6 A COMPETITIVE BID PROCESS.

7 S 4. This act shall take effect immediately and shall apply to all job  
8 order contracts solicited or renewed on or after such effective date.