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

5339

2013-2014 Regular Sessions

I N A S S E M B L Y

February 25, 2013

Introduced by M. of A. GALEF, PAULIN, JAFFEE, GIGLIO, KOLB, BOYLAND, SCHIMMINGER -- Multi-Sponsored by -- M. of A. CROUCH, JORDAN, P. LOPEZ, MAGEE, McDONOUGH, McKEVITT, MONTESANO, SALADINO, THIELE -- read once and referred to the Committee on Education

AN ACT to amend the education law and the general municipal law, in relation to exempting school districts from requirements for separate specifications for public work; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The opening paragraph of section 308 of the education law is designated subdivision 1 and a new subdivision 2 is added to read as follows:

2. THE COMMISSIONER SHALL COMMISSION A STUDY ON THE IMPACT OF EXEMPTING SCHOOL DISTRICTS FROM THE SEPARATE BIDDING REQUIREMENTS OF THE GENERAL MUNICIPAL LAW PURSUANT TO THE PROVISIONS OF SUBDIVISION SIX OF SECTION ONE HUNDRED ONE OF THE GENERAL MUNICIPAL LAW. SUCH STUDY SHALL INCLUDE THE IMPACT ON TIME FRAMES FOR COMPLETING CONSTRUCTION AND IMPROVEMENT PROJECTS, THE OVERALL COSTS OF SUCH PROJECTS, THE QUALITY OF WORK PERFORMED AND THE INTEGRITY OF THE BIDDING PROCESS. THE COMMISSIONER SHALL ISSUE SUCH STUDY TO THE GOVERNOR, THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY IN THE FOURTH YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 2. Section 101 of the general municipal law is amended by adding a new subdivision 6 to read as follows:

6. A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, SPECIFICATIONS FOR WORK PERTAINING TO THE CONSTRUCTION, ADDITION OR IMPROVEMENT OF ANY SCHOOL DISTRICT BUILDINGS OR APPURTENANT FACILITIES MAY PROVIDE FOR ASSIGNMENT OF RESPONSIBILITY FOR SUPERVISION AND COORDINATION OF ANY OR ALL OF THE CONTRACTS FOR SUCH WORK TO A SINGLE RESPONSIBLE AND RELIABLE PERSON, FIRM OR CORPORATION.

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

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B. WHERE A SCHOOL DISTRICT ELECTS TO PROVIDE FOR THE ASSIGNMENT OF A CONTRACT TO A SINGLE PERSON, FIRM OR CORPORATION PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, SUCH SCHOOL DISTRICT MAY REQUIRE THE APPARENT LOW BIDDER AND, AT THE DISCRETION OF THE SCHOOL DISTRICT, THE APPARENT SECOND LOW BIDDER, TO SUBMIT TO THE DISTRICT THE NAMES OF THE BIDDER'S PROPOSED SUBCONTRACTORS FOR THE ELECTRICAL WORK; HEATING, VENTILATING AND AIR CONDITIONING WORK; AND THE PLUMBING WORK. ONLY ONE PROPOSED SUBCONTRACTOR SHALL BE NAMED FOR EACH SUCH TRADE. SUCH PROPOSED SUBCONTRACTOR OR SUBCONTRACTORS MAY BE REJECTED BY THE SCHOOL DISTRICT ON THE BASIS SET FORTH IN PARAGRAPH E OF THIS SUBDIVISION. UPON REJECTION OF A PROPOSED SUBCONTRACTOR OR SUBCONTRACTORS, THE SCHOOL DISTRICT MAY REQUIRE THE APPARENT LOW BIDDER TO SUBMIT AN ALTERNATE PROPOSED SUBCONTRACTOR OR SUBCONTRACTORS WITHIN FORTY-EIGHT HOURS. SHOULD THE APPARENT LOW BIDDER FAIL TO PROPOSE ALTERNATE SUBCONTRACTORS SUBJECT TO APPROVAL BY THE SCHOOL DISTRICT, THE SCHOOL DISTRICT MAY CONSIDER THE NEXT APPARENT LOW BIDDER AND SHALL FOLLOW THE SAME PROCEDURE SET FORTH IN THIS PARAGRAPH. SUCH PROPOSED SUBCONTRACTORS OF THE BIDDER, APPROVED BY THE SCHOOL DISTRICT SHALL BE USED ON THE WORK FOR WHICH THEY WERE PROPOSED AND APPROVED, AND THEY SHALL NOT BE CHANGED EXCEPT WITH THE SPECIFIC WRITTEN APPROVAL OF THE DISTRICT.

C. PAYMENT TO THE PROPOSED SUBCONTRACTORS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE HUNDRED SIX-B OF THIS ARTICLE. IN THE EVENT ANY SUCH SUBCONTRACTOR IS NOT PAID BY THE CONTRACTOR, THE SUBCONTRACTOR SHALL IMMEDIATELY NOTIFY THE SCHOOL DISTRICT OF SUCH FACT.

D. WITH THE SUBMISSION OF THE NAMES OF THE PROPOSED SUBCONTRACTORS AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, THE BIDDER SHALL SPECIFY THE VALUE TO BE PAID EACH SUCH SUBCONTRACTOR FOR THE WORK TO BE PERFORMED BY SUCH SUBCONTRACTOR.

E. A SCHOOL DISTRICT MAY REJECT ANY OR ALL BIDS OR WAIVE ANY INFORMALITY IN A BID IF IT REASONABLY BELIEVES THAT THE PUBLIC INTEREST WILL BE PROMOTED THEREBY. A SCHOOL DISTRICT MAY REJECT ANY BID IF, IN ITS JUDGMENT, THE BUSINESS ORGANIZATION, RESOURCES, FINANCIAL STANDING, OR EXPERIENCE OF THE BIDDER JUSTIFIES SUCH REJECTION IN VIEW OF THE WORK TO BE PERFORMED.

F. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO THE NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY ESTABLISHED PURSUANT TO TITLE SIX OF ARTICLE EIGHT OF THE PUBLIC AUTHORITIES LAW.

S 3. This act shall take effect on the first of September next succeeding the date on which it shall have become a law, and shall apply to all contracts advertised or solicited for bid on or after such effective date; provided that the provisions of this act shall expire and be deemed repealed five years after such effective date.