

10021

I N A S S E M B L Y

June 9, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Silver, Brennan, Rodriguez) -- read once and referred to the Committee on Cities

AN ACT relating to joint bidding on contracts for public work projects

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

1 Section 1. This act shall only apply to a city with a population of
2 one million or more.
3 S 2. a. "Utility interference work" shall mean any work that is
4 deemed necessary or desirable for the completion of a public work
5 project that requires the maintenance, support, protection or other
6 accommodation of energy, telecommunications or other private facilities
7 or structures not publicly owned which are located within, traversing or
8 adjacent to the construction area of such project, whether above, below
9 or at ground level, including the removal, relocation, alteration,
10 replacement, reconstruction or improvement of such facilities or struc-
11 tures.
12 b. "New York city utility interference work project" shall mean any
13 public work project within the city of New York for which the city
14 awards a contract which includes utility interference work in such
15 contract.
16 S 3. a. Notwithstanding any general, special or local law or rule or
17 regulation to the contrary, the city of New York may include utility
18 interference work in any contract for a public work project, provided
19 that the costs of work performed pursuant to this subdivision, including
20 any incremental or administrative costs attributable to such work, shall
21 not be borne by the city except as otherwise provided by chapter 357 of
22 the laws of 1988. If the city of New York undertakes a New York city
23 utility interference work project, the city shall award the contract to
24 the lowest responsible bidder based upon the combined cost of the public
25 work and the utility interference work and the city shall be reimbursed
26 by the entity responsible for the utility interference work for any
27 incremental cost increase equal to the difference between the cost of
28 the public work in the overall low bidder and the cost of the public
29 work of the lowest bidder for the public work alone. However, if the
30 cost of the public work of the lowest bidder for the public work alone
31 is more than twenty percent below the average of the next two lowest

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

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1 bids for the public work, then the city shall award the contract to the
2 lowest responsible bidder for the public work alone. In the event that
3 the utility interference work is not included in the city's contract,
4 nothing in this subdivision shall prevent the city from including
5 provisions in its contracts requiring contractors to engage in alternate
6 methods of dispute resolution regarding utility interference work.
7 Further, nothing in this section is to be deemed to alter, modify,
8 amend, or revoke any of the rules presently existing that govern the
9 responsibility between the metropolitan transportation authority and the
10 public utilities for the payment of any of the costs required for the
11 maintenance, support, protection, or other accommodation of any energy,
12 telecommunication, or other private facilities or structures.

13 b. Notwithstanding any general, special or local law or rule or regu-
14 lation to the contrary, when the city awards a contract for a New York
15 city utility interference work project the city shall require contrac-
16 tors and subcontractors to have, prior to entering into such contracts,
17 a record of maintaining harmonious labor relations, a commitment to
18 working with minority- and women-owned businesses through joint ventures
19 or subcontractor relationships, and a record of protecting the health
20 and safety of workers on construction projects and job sites demon-
21 strated by their experience modification rates for each of the last
22 three years. In addition, when the city awards a contract for a New York
23 city utility interference work project that exceeds one million dollars,
24 the city shall require contractors and subcontractors to have, prior to
25 entering into such contracts, apprenticeship agreements appropriate for
26 the type and scope of work to be performed, that have been registered
27 with and approved by the commissioner of the department of labor, and
28 that have been in successful operation for a period of not less than
29 three years.

30 c. Contracts awarded pursuant to this act are contracts subject to the
31 requirements of article 15-A (or its successor) of the executive law.
32 For the award of contracts pursuant to this act, the city of New York
33 shall be considered a state agency under article 15-A (or its successor)
34 of the executive law for purposes of establishing goals for the partic-
35 ipation of certified minority- and women-owned business enterprises in
36 contracts for New York city utility interference work projects and
37 including contracts for the design of projects.

38 d. A New York city utility interference work project shall not be
39 subject to the provisions of this act where compliance with the
40 provisions of this act would violate the terms or conditions of any
41 applicable federal law or regulation.

42 S 4. Notwithstanding any provisions to the contrary in this act, any
43 Lower Manhattan redevelopment project, as defined in section 3 of chap-
44 ter 259 of the laws of 2004, known as the Coordinated Construction Act
45 for Lower Manhattan, as amended, shall be governed by such act while
46 such act remains in effect.

47 S 5. Severability. If any clause, sentence, paragraph, section or part
48 of this act shall be adjudged by any court of competent jurisdiction to
49 be invalid such judgment shall not affect, impair or invalidate the
50 remainder thereof, but shall be confined in its operation to the clause,
51 sentence, paragraph, section or part thereof directly involved in the
52 controversy in which such judgment shall have been rendered. It is here-
53 by declared to be the intent of the legislature that this act would have
54 been enacted even if such invalid provisions had not been included here-
55 in.

56 S 6. This act shall take effect immediately.